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HAROLD B. WILLEY,

IN THE

Supreme Court of the United States

OCTOBER TERM, 1953.

No. 374

CHARLES F. HARAD, AND SARA E. HARAD, CO-PARTNERS DOING BUSINESS AS INDUSTRIAL ENGINEERING ASSOCIATES,

Petitioners,

vs.

SEARS, ROEBUCK & CO.,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

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THE BLAKEMORE-WARREN PRINTING COMPANY, CHICAGO

INDEX.

	PAGE
Opinions Below	1
Jurisdiction	2
Questions Presented	2
Statement of the Case	3
Reasons for Granting the Writ	10
Conclusion	15
Appendix	17
Group A	19
Group B	21
Group C	23

AUTHORITIES CITED.

Cases.

Dad's Root Beer Co. v. Doc's Beverages, 193 F. 2d 77 (6th Cir. 1951)	11
Schlitz Brewing Co. v. Houston Ice Co., 250 U. S. 28 (1919)	13
Sears, Roebuck & Co. v. Elliott Varnish Co., 232 F. 588 (7th Cir. 1916)	12
Stix, Baer & Fuller Co. v. Alfred J. Sweet Co., 49 F. 2d 598 (8th Cir. 1931)	13
Warner & Co. v. Lilly & Co., 265 U. S. 526 (1924)	12

Miscellaneous.

Chafee, Unfair Competition, 53 Harv. L. R. 1289 (1940)	13
American Law Institute, Restatement, Torts § 741	12

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PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

Petitioner prays that a Writ of Certiorari issue to review the judgment of the United States Court of Appeals for the Seventh Circuit, entered in the above entitled case on April 10, 1953.

OPINIONS BELOW.

The findings and conclusions of the District Court are set out in the Transcript of the Record at pages 510-22, 528 and 529-30; the Court rendered no opinion. The opinion of the Court of Appeals for the Seventh Circuit is reported at 204 F. (2d) 14 (R. 546).[1]

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1. For ease of reference Findings of the trial court will be abbreviated by the letter "F", a reference to the Transcript of the record in the trial court by the letter "R".

JURISDICTION.

The jurisdiction of this Court is invoked under 28 U. S. C. 1254 (1). The judgment of the Court of Appeals was entered on April 10, 1953 (R. 555). A petition for rehearing was filed on May 7, 1953 (R. 556), an order having been entered extending the time for the filing to this date (R. 556). The petition for rehearing was denied on May 28, 1953 (R. 557). The time within which to file this petition for a writ of certiorari was extended to September 25, 1953, by an order entered August 10, 1953, by Mr. Justice Jackson.

QUESTIONS PRESENTED.

The trial court found unfair competition where (1) Plaintiff produced a new, distinctive and successful though unpatented truss for hernia which (2) Defendant, a mail order house and retailer commanding a large market, sold as distributor for plaintiff; and where (3) Defendant suddenly dropped plaintiff and substituted an imitation of plaintiff's product, made by a former employee of plaintiff (4) which defendant then advertised and sold in the same market in a manner indicating a conscious indifference toward confusion of the public. The Court of Appeals held the finding clearly erroneous.

The question is whether the Court of Appeals has so restricted and misapplied the concept of unfair competition as to deprive a producer of essential protection against his distributor's piracy of good will in and control over an unpatented but new and distinctive product.

If certiorari is granted, petitioners will also present questions.

1. Whether the trademark "Sportsman" in an elliptical frame with the words "athletic truss" embossed upon a

truss for hernia is infringed by a mark consisting of the representation of an athlete accompanied by the words "active man" and "truss" also within an elliptical frame embossed upon a similar truss.

2. Whether the Court of Appeals' mandate of reversal rather than remand for further proceedings in the District Court was an abuse of discretion.

3. Whether the Court of Appeals exceeded its authority in determining that certain findings of the District Court were clearly erroneous when such findings were in fact supported by substantial evidence.

STATEMENT OF THE CASE.

This suit is based on unfair competition and trademark infringement, is between citizens of different states and the matter in controversy, exclusive of interests and costs, exceeds the sum or value of $3,000. The Trial Court's finding for the plaintiff and its award of injunction, treble damages and an accounting was based on the following facts:

Plaintiffs, a partnership consisting of Charles and Sara Harad (referred to herein as the "Harads"), citizens of Indiana, developed and manufactured a self-fitting truss for the treatment of hernia.[2] Though unpatented, this truss was new and distinctive in its shape, outline and configuration; and the Harads' sale of this truss, extending over the entire country was successful, ranging from total sales of 3,000 trusses in 1947, the first year of its production, to a high of 27,669 in 1949.[3]

Defendant, Sears Roebuck & Company (referred to here-

2. F. 1 and 5, R. 510.
3. F. 5 and 6, R. 510; F. 25, R. 514-5.

in as "Sears"), a New York corporation, is a mail order house and retailer commanding a large market for trusses. Commencing shortly after the initial production of the truss in 1947 for a period of approximately two and one-half years until January, 1950, Sears acted as a distributor for plaintiff, selling a major share of plaintiffs' output.[4]

Distribution of Substitute Truss by Sears. On the latter date, Sears ceased selling Harads' truss in any substantial quantity and substituted for it a truss which, while from a different source, was similar to the distinctive shape, outline and configuration of the Harad truss.[5] The Court found that in distributing this substitute truss Sears acted with a conscious indifference to the fact that its trademarking, sale and advertising of the substitute made it appear to be a new model of the Harad truss.[6]

Development of Substitute; Assistance by Sears. The substitute truss was developed by Louis P. Mack, a former salesman of the Harads, who handled the Sears account.[7] Mack commenced development of the truss immediately after termination of his employment with Harad in July, 1949, part of his production work being done by the Glade Manufacturing Company of Chicago. In instructing the Glade Company as to the type of truss parts to produce, Mack demonstrated to the Company the Harad truss.[8] Though Sears' buyer, Mr. Al Steier, advised Harad by a letter of July 29, 1949 that Sears planned to present the Harad trusses in its spring and summer catalog of 1950,

4. F. 11, p. 512; F. 29 and 30, R. pp. 515-16; R. 60—Plf. Ex. Y.

5. F. 28, R. 515; F. 39, R. 518.

6. F. 35 and 36, R. 517; F. 40, R. 528-9; Conclusion 7, R. 521.

7. F. 43, R. 520; R. 216. It also appears from the Court of Appeals opinion that Mack was a personal friend of Mr. Al Steier, the Sears truss buyer, and from the record that Mack had never been in the truss business prior to his two year association with the Harads (204 Fed. (2d) at p. 15, R. 547; R. 238).

8. F. 43, R. 520.

Steier actually assisted Mack in September or October of 1949 by advising the Glade Company to speed up the development and production of the substitute truss. Not until December, 1949, did Sears inform the Harads that it planned to restrict its distribution of the Harad truss in the spring of 1950.[9]

Trademark on the Original and Substitute Trusses. Prominently displayed in the middle of the shield portion of both the Harad and the substitute truss were embossed trademarks. Each trademark was of approximately the same size and consisted of an elliptical frame. In the center of the elliptical frame on the Harad truss were the words:

SPORTSMAN

athletic truss[10]

In the center or border of the elliptical frame on the substitute truss were the following picture and words:

active man

(Picture of an Athlete)

truss[11]

Pictures of the two trusses with their trademarks[12] are set out in the appendix to this petition for comparison.

Catalog Advertisement. Immediately before and after the substitution, Sears advertised both trusses in a substantially identical manner in its semi-annual catalogs, which were distributed throughout the United States. To each it gave prominence by a quarter or half-page advertisement. Each contained an illustration of the truss, the words "for the active man" or "for active men," pen and

9. F. 29, R. 515-6.

10. F. 7, R. 510-11. This mark was registered on the Supplemental Register of the 1946 Trade Mark Act, F. 42, R. 519.

11. F. 30, R. 516.

12. These are pictures of Plf. Ex. CC and Def. Ex. 7.

ink sketches of a farmer and a bowler and a similar arrangement of copy arranged in columnar form, each line being preceded by a dot.[13] The last catalogs before the change was the fall and winter of 1949.[14] The next catalog after the change was spring and summer, 1950.[15] In each of these catalogs: the same space is devoted to the respective trusses; identical pen and ink sketches are used; the phrase "for the active man" is used; there is an identity of arrangement of the features; and the illustrative cuts of the trusses are almost identical. The truss illustration in the 1950 catalog actually duplicates features which were identical *solely* with those of Harads' truss *and not* of the substitute truss which it purportedly advertised; in several particulars the illustration duplicates either the Harad truss or illustration by Harad or Sears of the Harad truss.[16] Exhibits of the two catalog advertisements immediately preceding and the two catalog advertisements immediately succeeding the change are reproduced in the appendix to this brief.[17]

The Packaging and Advertisement by Circular. Until the spring of 1948, each Harad truss was shipped to all Harads' customers in a distinctive carton bearing the words "Sportsman Athletic Truss," the phrase "for the active man," and in two places the business name and address of Harads; each such carton contained a folder and descriptive card containing similar data.[18] After that date, Harad packaged their trusses as follows: all trusses shipped to Sears retail stores and to Harads' other retail outlets were packaged in a carton identical to that described above.

13. F. 18-24, R. 513-4; F. 32-34, R. 516-7.
14. Plf. Ex. OO, reproduced in the appendix to this brief.
15. Plf. Ex. SS, reproduced in the appendix to this brief.
16. F. 40, as amended, R. 528.
17. Plf. Exs. NN, OO, SS, TT.
18. F. 12 and 13, R. 512; F. 20, R. 513.

Inside each such carton was a three-page folder; on the outside of such folder there appeared an illustration of the truss identical to that appearing in Sears catalog, the name "Sportsman Athletic Truss" and the trade name and address of the Harads. On the inside of this circular there appeared certain advertising data similar to that set out in the Sears catalog, pen and ink drawings of men in active and reclining positions, and drawings illustrating the adjustment and wearing of the truss.[19] To Sears mail order houses (as distinguished from its retail stores) each Harad truss was shipped in a Sears approved carton containing a three-page folder with an inside identical to that shipped in the other box, and containing the words "Sears Approved" on the outside. The substitute truss was shipped in a Sears approved carton also containing a three-page folder with pen and ink sketches on the inside substantially identical to those contained on the inside of the three-page folders shipped with the Harad trusses.[20]

Harads' Advertising. During the years 1947 through 1950, the Harads spent substantial sums in advertising the Sportsman athletic truss, including the distribution of display cards, advertising streamers and mats for newspaper advertising, and spent substantial time at retail outlets promoting and assisting in retail sales. Harads paid half of their customers' newspaper advertising. Exclusive of the sums paid to Sears, these amounts ranged annually from $8,500.00 in 1948 to $25,400.00 in 1950.[21]

The Infringement and Unfair Competition. The Court found that the natural and probable effect of Sears' selling the substitute truss was to confuse and deceive the purchasing public into believing that the substitute truss was

19. F. 14 and 15, R. 512-3; F. 22-24, R. 514.
20. F. 39, R. 518.
21. F. 8-10, R. 511-2.

produced by Harads or came from the same source as the Harad truss because of Sears conduct in each of the following particulars:

(a) The use of the Active Man mark on the substitute truss, this mark being a colorable imitation of the Sportsman mark on the Harad truss.[22]

(b) The illustration used to advertise the substitute truss in Sears catalog was substantially identical to that used in previous Sears catalog advertisements of the Harad truss and in the three-page folder packed with the Harad truss.[23] The Court found that, because of its extensive use in the catalog, circular and other advertising described above, this illustration had attained a secondary meaning indicating a truss originating with the Harads or coming from the same source as the Harad truss.[24]

(c) The advertising of the substitute truss by a combination consisting of the illustration, the slogan "for the active man," certain pen and ink sketches of men at work and play, descriptive statements in column formation preceded by a dot, and by the peculiar layout of each of these features relative to the other.[25] The Court found that this combination and arrangement had attained a secondary meaning because of such advertisement, in the same manner as the illustration itself.[26]

(d) The sale by Sears of the substitute truss, with the Active Man trademark, having a shield portion in the shape and configuration described above and packed with a three-page folder containing on the inside the same gen-

22. F. 30 and 31, R. 516.
23. F. 32 and 33, R. 516-7.
24. F. 26, R. 515.
25. F. 34 and 35, R. 517.
26. F. 27, R. 515.

eral layout and drawings as the folder used in packing the Harad truss.[27]

The trial court also found that there was actual confusion and mistake on the part of the public which believed that the substitute truss was produced by the Harads or came from the same source as the Harad truss.[28]

The Court of Appeals Decision. The Court of Appeals reversed the trial court's decision and stated that Sears was not proven guilty of unfair competition or trademark infringement by asserting that the trial court's findings were clearly erroneous in three particulars:

1. The arrangement of the advertising could not have acquired secondary meaning since advertising of the same general type used in advertising the Harad truss had been previously used by Sears in advertising other and different trusses.[29]

2. The Active Man trademark was not a substantial duplication of the Sportsman trademark since photographic reproductions of athletes are common in the advertising of "such items as trusses."[30]

3. No actual confusion on the part of the public was established by the evidence.[31]

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27. F. 39, R. 518.

28. F. 36, R. 517.

29. 204 Fed. (2d) at pp. 16-17, 19; R. 550-1, 554. It should be noted that, while Sears' prior advertising contained similar ideas to those used in the Harad truss advertising, its execution is so totally different that it could not detract from the uniqueness of the Harad truss advertising. Compare, *e. g.*, the Group B and Group C advertising in the Appendix. It should also be noted, however, that this petition and the importance of the question raised by the Court of Appeals' decision does not depend in any way on showing that any of the Court of Appeals' three redeterminations of fact are incorrect.

30. 204 Fed. (2d) at p. 18, 19; R. 553, 554.

31. 204 Fed. (2d) at pp. 18, 19; R. 553, 554. In finding no confusion the Court relies primarily on the facts that the writers

It should be noted that the Court of Appeals did not disturb the trial Court's findings:

(a) That the illustration of the Harad truss had attained a secondary meaning and that use of a closely similar illustration in advertising the substitute truss (as described in (b) above) would tend to deceive and confuse the public, indicating that the Harads had produced the substitute truss, or

(b) That the sale of the substitute truss, with its simulative shape and configuration, its Active Man trademark, and the three-page folder (as described in (d) above) was similarly likely to deceive and confuse.

REASONS FOR GRANTING THE WRIT.

1. The Court of Appeals has decided an important question in the law of unfair competition, drastically curtailing the protection afforded the manufacturer who produces and sells an unpatented article in interstate commerce against the piracy of his market and loss of control of his product to a distributor.[32] The Court denied the

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of two letters could tell the difference between the two trusses. It overlooks the clear language that the writers thought Harad produced the new truss. Eilts letter (R. 399): "Do you still make the old type of truss?"; Campbell letter (R. 402). It overlooks entirely a letter from the Montgomery Ward buyer, who upon seeing the advertisement of the substitute truss writes, "From the illustration I gather you have changed this truss from the style which you are supplying us * * *. Quite naturally I am perturbed over your failure to make this item available to Montgomery Ward" (R. 398). It also overlooks the implication contained in the Campbell letter that even Sears' sales personnel were confused as to who produced the substitute truss. Here again, however, this petition and the importance of the question do not depend on showing that this re-determination of fact by the Court of Appeals is incorrect.

32. The Court did not indicate whether it was deciding a question of local law under diversity jurisdiction or of federal law under the Lanham Act, 15 U. S. C. 1051 *et seq.*. Viewed as a decision of local law, the local law of all 48 states is drawn into

Harads relief on the ground of unfair competition, even though it left undisturbed the facts that Sears, (1) a former distributor of the Harads, (2) substituted in its distribution an imitative truss developed by the Harads' former salesman, (3) bearing a similar if non-infringing trademark (4) with substantially identical advertising (5) using in such substitute advertising an illustration having characteristics found solely in the Harad truss where (6) distribution of the original truss by Sears had been otherwise identified with the Harads and (7) with the other undisputed findings set out in the Statement, above.

This leaves the small manufacturer with protection against a large distributor solely where he has a patent, a technical trademark or a well-established and conventional secondary meaning. This is unsound for two reasons: The substitute product may easily be palmed off for the original, even in the absence of such property rights as a patent or technical trademark. Even where the facts justify the establishment of such patent or property right, many manufacturers do not have the large wealth necessary to get and protect it, or to establish the kind of secondary meaning required by the Court of Appeals. This leaves the small manufacturer at the mercy of those who command access to great markets. He is in a position where to make a profit he must sell out to those with more ample means of protecting themselves. The decision below concerns not only the relationship between the Harads and Sears, but affects the relationship of all suppliers with their distributors. There is an especially

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question since there was advertisement and sale of trusses in all states. The decision is probably in conflict with applicable local decisions. Viewed as a decision of federal law it decides an important question which has not been but should be decided by the court. In any case, the question is of a type which is decided primarily in the federal courts. Cf. *Dad's Root Beer Co.* v. *Doc's Beverages*, 193 F. (2d) 77 (2d Cir. 1951).

sharp significance where, as here, a backyard businessman deals with a great mail order and retail house.

Sears has defended this claim on the grounds that a contrary result would prevent it from changing the source of its product without paying a penance to its former source, and that sustaining the Harad claim would give him a monopoly. This is based on a misconception of the Harad claim. Admittedly, Sears is free to copy the Harad truss, to break off and deal with a different supplier, to adopt a trademark which the Court finds is not infringing, and to advertise in any manner which does not infringe a secondary meaning which a court finds has been attained in previous advertising. Petitioners' claim is simply that when all of these things are done in combination with no effort to indicate that there is a new source of supply, each act colors the other and brings about a situation which must be viewed as a whole, and when so viewed, warrants a finding of unfair competition. It should be noted that this is not one of those cases where a large distributor purchases an article for sale under its own trade name with the purchasers not knowing or caring about the manufacturing source. Sears might have made a contract with petitioners on that basis, but Sears should not be allowed a freedom from indicating a change of source in the absence of such a contract. Cf. *Sears, Roebuck & Co.* v. *Elliott Varnish Co.*, 232 Fed. 588 (7th Cir. 1916).

Any imitator, even a stranger, must take steps to avoid confusion. Sutherland, J., *Warner & Co.* v. *Lilly & Co.*, 265 U. S. 526. (1924) American Law Institute, Restatement, Torts, § 741. Certainly, this obligation is stronger where, as here, the imitator knows that former purchasers of the original product will return to him expecting to obtain what has satisfied them in the past. Did Sears take reasonable steps to inform its customers of the substitu-

tion? The facts undisturbed by the Court of Appeals indicate that it did not.

The importance of securing to those in this country whose ingenuity falls short of the genius required for patentability a fair chance to reap the rewards of ingenuity must not, of course, blind us to the importance of preserving free competition and avoiding of monopolies not constitutionally granted. Admittedly, the problem of drawing the line and furnishing criteria as clear as possible is a difficult one.

In this case the problem of drawing the line is not one for Congress nor for the Federal Trade Commission. No careful investigation of an industry or of its practice is needed. Petitioner is not setting himself up as a guardian of public morals; the wrong done here was done to petitioner alone. Recognition of petitioner's claim carries with it no danger of monopoly. The scope of protection can be accurately defined and appropriately limited by the court. No new type of unfairness is presented—nothing but the old in a new combination. Thus, the problem here is peculiarly one for the judicial process. Chafee, *Unfair Competition*, 53 HARV. L. R. 1289 (1940).

In establishing the bounds of unfair competition, the Court of Appeals violated a fundamental canon of judicial process. Petitioner built a case of unfair competition made up of several factors. Perhaps, no one standing alone was sufficient; but they did not stand alone. The Court of Appeals proceeded "to break the fagot stick by stick." This it was not entitled to do. Holmes, J., in *Schlitz Brewing Co.* v. *Houston Ice Co.*, 250 U. S. 28 (1919).

2. The decision of the court below in the instant case is directly in conflict with the decision of the Eighth Circuit Court of Appeals in *Stix, Baer & Fuller Co.* v. *Alfred J. Sweet Co.*, 49 F. 2d 598 (8th Cir. 1931).

The essential facts in the *Stix* case and the instant case are substantially identical and are as follows:

(1) Each involved a manufacturer as plaintiff and a large distributor as defendant. In the *Stix* case, the distributor was a large St. Louis department store.

(2) In each case the distributing arrangement had extended over a period of time.

(3) In each case the distributor terminated the contractual arrangement and commenced distributing a very similar product from another manufacturing source—in the instant case, an elastic truss with a unique shield portion; in the *Stix* case, a class of shoes known as "comfort" shoes.

(4) In each case the original manufacturer had used a trademark in connection with his product, and in each case the distributor invented and used a very similar trademark on the substitute product. In the instant case the similarity arises from the connotation, size and style of the mark —Sportsman truss in an eliptical frame, as opposed to Active Man truss in a similar frame. In the *Stix* case there was a similarity of sound—"Ye Olde Tyme Comfort," as compared with "All Time Comfort."

(5) In each case the substitute distribution was carried out with a product of the same class serving the same market as the original distribution; and in each case satisfied customers would be likely to re-order the product within a period of, roughly, a year or so.

The Court of Appeals for the Eighth Circuit, refusing as did the Court for the Seventh Circuit to find trademark infringement, found that the use of the trademark in conjunction with the other factors described above constituted unfair competition. The Court for the Seventh Circuit, however, found that no trademark infringement existed and that the advertising of the original product had no

secondary meaning, failed to consider the effect of all the facts taken together, refused to find unfair competition, and, in effect, limited the protection afforded a manufacturer in a distributor-manufacturer relationship to a situation where he possesses a technical trademark or similar property right.

Conclusion.

The petitioner prays that the writ be granted.

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Appendix

APPENDIX.

This appendix consists solely of exhibits introduced into evidence in the trial court or pictures of such exhibits; these exhibits can be divided into three groups as follows:

Group A.

Pictures of the Harad truss and the substitute truss.

Group B.

Reproductions of the two semi-annual Sears catalog pages used immediately before the substitution and the two used immediately after the substitution.

Group C.

Reproductions of Sears' catalog pages used prior to distribution of the Harad truss. Under the Court of Appeals decision, this type of prior advertising prevented subsequent catalog and other advertisement of the Harad truss from attaining secondary meaning.

Exhibit No.	*Description.*
	Group A.
Plf. CC	Harad truss.
Def. 7	Substitute (Mack) truss.
	Group B.
Plf. NN	Sears spring and summer 1949 catalog, p. 823.
Plf. OO	Sears fall and winter 1949 catalog, p. 984.
Plf. SS	Sears spring and summer 1950 catalog, p. 800.
Plf. TT	Sears fall and winter 1950-51 catalog, p. 958.

Group C.

Def. 21

Sears fall and winter catalog 1946-47, pp. 790, 791.

Def. 29

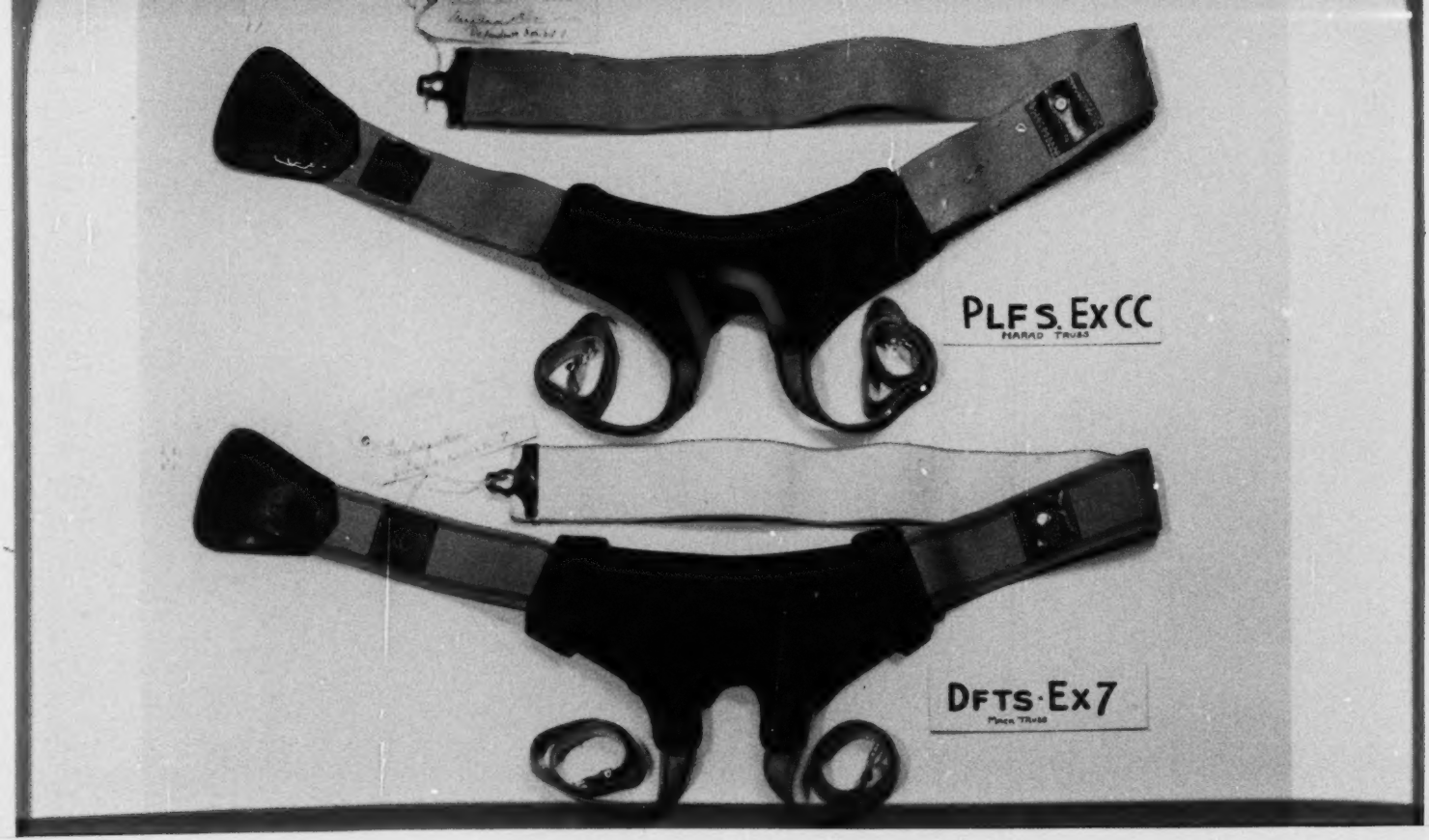
Sears fall and winter catalog, 1943-44, pp. 674, 675.

Def. 79

Sears fall and winter catalog, 1945-46, pp. 480, 481.

Group A.

These are pictures of the Harad and the substitute truss.


PLF'S. EX CC
HARAD TRUSS
DFTS·EX7
PLACA TRUSS

Group B.

The first two pages in this group show the two semi-annual Sears catalog pages advertising the Harad truss and appearing immediately before the substitution (Plf. Exs. OO and NN); the second two pages show the two semi-annual Sears catalog pages advertising the substitute truss and appearing immediately after the substitution (Plf. Exs. SS and TT).

PLAINTIFF'S EXHIBIT NN (or C).

FOR THE ACTIVE MAN
Athletic Truss and Support

- Unbelievably comfortable
- Designed so it can't slip
- Automatically self-fitting



FOR MAXIMUM PROTECTION WEAR THIS PERFECT-FITTING SEARS APPROVED TRUSS

- Strong elastic belt and understraps with pliable rubber front
- Thin pliable rubber pad fits comfortably without chafing body
- Leg straps scientifically placed to afford utmost comfort

$8.89 Single

You can enjoy an active life with this Sears Approved Athletic Truss! Designed to hold reducible hernia when you're doing heavy work or engaged in athletics. See your doctor! Extremely comfortable to wear. Has no steel bands or metal parts to pinch or bind. Thin pliable rubber pad remains fixed in position while soft, pliable truss moves with body. Provides maximum retention for all reducible hernias. Won't slip under strenuous activity, active sports, and everyday stretching and bending.

Leg straps are scientifically placed not to interfere with normal body functions. Straps follow natural crease of buttocks and fasten at sides of body; cannot cross the legs or ride buttocks. Excellent after operations to support tissues and aid in preventing recurrences of hernia. Made to support structures instead of pressing deeply at one point. Has strong but comfortable elastic belt and understraps with pliable rubber front. Genuine leather reinforcement at buckle. An ideal truss when you drive a car, stretch, squat, or kneel over. Conforms to natural anatomy of body. Even sizes 30 to 42. *State waist measurement and whether for right or left side.*

8 E 1325—Single style. Shipping weight 1 lb. 10 oz. $8.89
8 E 1326—Double style. Shipping weight 1 pound 14 oz. 9.99

All trusses available on Sears Easy Payment Terms. For complete details, see inside back cover. For value, always shop at Sears



DAY AND NIGHT URINALS—hand made of pure gum rubber

A Oval style over-capacity Reservoir. Holds 28 ounces. Fits all Sears urinals. Shipping weight 5 ounces.
8 E 2402 ..... $3.50

B Tubular style over-capacity Reservoir. Holds 28 ounces. Fits Sears urinals. Shipping weight 6 ounces.
8 E 2403 ..... $3.50

C Female Urinal. Improved type, high in front and in back, designed to minimize leakage. Clings closely to body. Easily adjustable. Air vent prevents return of fluid to upper part. Removable belt. Easy to wash. Capacity 22½ oz.
8 E 2404—Shpg. wt. 10 oz. $9.00

D Male Urinal. Form-fitting top, soft comfortable latex sheath. Non-corrosive slide buckles for adjustment. Detachable connecting tube. Air vents prevent ballooning and return of fluid to upper part.
8E2406—Men's 16-ounce. Shipping weight 13 ounces. $5.50
8 E 2407—Boys' 8-ounce. Shipping weight 9 ounces. $5.50

E Male Scrotum type Urinal. Horn has soft comfortable pure latex sheath. Scrotum pack won't rub or chafe. Adjustable non-corrosive slide buckles. Capacity 12 ounces. Air vents prevent ballooning and return of fluid to the upper part. Shipping weight 13 ounces. $5.98
SPECIAL NOTE: For sanitary reasons, used urinals are not returnable.

F Deluxe Male Urinal. Larger top, adjustable connection for greater comfort. Soft rubber sheath is removable. Extra sheath included. Air vents prevent ballooning and return of fluid to the upper part.
Adjustable non-corrosive slide buckles. May be used without reservoir if desired. Capacity 12 ounces. Shipping weight 15 ounces. $7.98

G Larger top, Deluxe Male Urinal. Has extra large sheath. Adjustable non-corrosive slide buckles. Capacity 12 ounces. Air vents prevent ballooning and return of fluid to the upper part. Shipping weight 15 ounces. $8.50

...ENSORIES

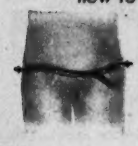
H Single strap style. Fits without understraps. Knit cotton pouch. Adjustable waistband of cotton webbing. Washable. *State choice of medium or large size pouch.* Shpg. wt. each 2 oz.
8 E 1479—Each 49c. ..... Two for 93c — 49c Each

J Army-Navy Style. For firm support. Pouch made of long-wearing cotton mesh bound in braid. Adjustable elastic understraps and waistband. Washable. *State choice of medium or large size pouch.* Shpg. wt. each 2 oz.
8 E 1478—Each 79c. ..... Two for $1.49

J Sears Approved. Seamless rayon pouch shaped to fit properly. Low opening. Adjustable elastic understraps and waistband. Washable. *State choice of medium or large size pouch.* Shpg. wt. each 2 oz.
8 E 1480—Each $1.15. ..... Two for $2.19

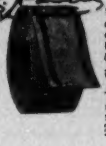
If you do not at present wear a truss, we suggest you see your family doctor on the style of truss to buy.

HOW TO MEASURE FOR TRUSS



Have someone draw tape measure straight around body in direct line with point of rupture, as shown at left. Take snug measurement over bare skin—do not measure over clothes. Send us exact measurement and we will send you correct size. (Do not send waist measurement except for 8E1325 and 8E1326.)

NOTE: For larger sizes than those listed, order style you want at price shown, and we will get it for you at no extra charge. Allow 60 days for special sizes. No C.O.D. orders.



Elastic Webbing for trusses

Use this elastic webbing for trusses and artificial limbs. Made of good quality cotton woven over strands of heavy rubber for extra service. *Measure the webbing now used, order same width.*

Width inches	Catalog number	Shipping weight	Price per yard
¾	8 E 1300	3 oz.	35c
1½	8 E 1301	3 oz.	49c
1¾	8 E 1305	4 oz.	79c
2	8 E 1302	4 oz.	99c

TO PAGE 823 . . TRUSSES



PLAINTIFF'S EXHIBIT 00.

SEARS APPROVED ATHLETIC TRUSS

- ...r the active man! Unbelievably comfortable
- Automatically self-fitting
- Scientifically designed so it cannot slip
- Maximum protection!



For maximum protection wear perfect-fitting SEARS APPROVED Truss

- Strong elastic belt, understraps
- Comfortable pliable rubber pad
- Leg straps scientifically placed

$8.89 Single

You can enjoy an active life with this **Sears Approved** Athletic Truss. Designed to hold reducible hernia when you're doing heavy work or engaged in athletics. See your doctor! Extremely comfortable to wear. Has no steel bands or metal parts to pinch or bind. Thin pliable rubber pad remains fixed in position while soft, pliable truss moves with body. Provides maximum retention for all reducible hernias. Won't slip under strenuous activity, active sports, and everyday stretching and bending. Leg straps are scientifically placed not to interfere with normal body functions. Straps follow natural crease of buttocks and fasten at sides of body; cannot cross legs or ride buttocks. Excellent after operations to support tissues and aid in preventing recurrences of hernia. Made to support structures instead of pressing deeply at one point. Strong but comfortable elastic belt and understraps with pliable rubber front. Leather reinforcement at buckle. It's **Sears Approved**, your assurance of high quality. Even sizes 30 to 42. *State waist measurement, whether for right or left side.*

8 K 1325—Single style. Shipping wt. 1 lb. 10 oz. **$8.89**
8 K 1326—Double style. Shipping wt. 1 lb. 14 oz. **$9.98**



SEARS APPROVED SCROTAL TYPE TRUSSES

Use Scrotal style trusses to support low reducible ruptures firmly and comfortably. Equipped with understraps to hold pad in position effectively. All exposed metal parts are heavily nickel plated and highly polished. **Sears Approved** for high quality. Give exact measurements. **$4.98** Single Style

A Elastic Scrotal Style. For mild cases of rupture. Elastic webbing waistband. Cloth underdrap. Two tension straps at the front control position and pressure of leather-covered scrotal pad. Comes in even sizes 32 to 42. See **How to Measure** on opposite page. *Please state measurement and whether for right or left side.* Shipping weight 12 oz.

8 K 1312—Single style. **$4.98**

B Scrotal Style Spring Truss. For firm support. Adjustable "anti-slip" pad is covered with corrugated rubber to grip the body better. Well-padded spring is covered with sweat-resistant leather. Soft rubber understraps. Even sizes 32 to 42. See **How to Measure** on opposite page. *Please be sure to state exact measurement and whether for right or left side.*

8 K 1394—Single. Shipping wt. 1 lb. **$6.98**
8 K 1395—Double. Shipping wt. 1 lb. 12 oz. **$8.98**



SEARS APPROVED HOOD STYLE TRUSSES

Standard Hood Model

Use Hood style trusses for support of high, intractable, or low type reducible ruptures. Resilient steel springs. Rigid front, back opening. Single style has dummy pad on unaffected side.

$5.69 Single

Standard Hood Model. Leather-covered pad, steel springs. Adjustable pads. Even sizes 32 to 42. See **How to Measure.** *State measurement, whether right or left side.* Wt. 1 lb. 2 oz.; 1 lb. 4 oz.

8 K 1349—Single style. **$5.69**
8 K 1349—Double style. **$6.49**

"Anti-slip" Hood Model

The pads on this truss are covered with corrugated non-slip rubber to hold firmly on the body. Steel springs are covered with fine-quality sweat-resistant leather. Comes in even sizes 32 to 42. See **How to Measure** on opposite page. *Please state exact measurement and whether for right or left side.* Excellent value!

$7.79 Single

8 K 1392—Single style. Shipping weight 1 lb. 2 oz. **$7.79**
8 K 1392—Double style. Shipg. wt. 1 lb. 4 oz. **$8.98**

Plastic Hood Style

Easy to keep clean and sanitary . . . just wipe with a wet cloth when you want to clean it! Pads and springs covered with smooth, lightweight plastic. Won't absorb odors. May be worn while bathing or swimming. Fastens with sturdy leather straps. Excellent truss for year-round use! It's **Sears Approved**, your assurance of quality. Comes in sizes 30 to 42. *Please state exact measurement and whether for right or left side.* Shpg. wts. 1 lb. 1 oz.; 1 lb. 3 oz.

$7.98 Single

8 K 1315—Single style. **$7.98**
8 K 1316—Double style. **$8.98**



SEARS APPROVED UMBILICAL TRUSS

Gives secure support for navel ruptures. Soft sponge rubber pad. Elastic band permits free movement of the body. Washable, easy to keep sanitary. Comes in even sizes 34 to 44. In measuring, take snug appearement around body at navel. *Please state this exact measurement.*

$4.49 Each

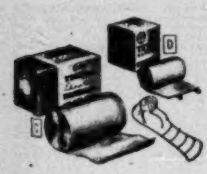
8 K 1314—Shpg. wt. 1 lb. 4 oz. Only **$4.49**

Dusting Powder for Trusses

No matter how perfectly your truss fits, it will feel better if you use this high-quality powder. Made especially to use with surgical appliances. Acts as a soothing cushion between truss and body . . . non-absorbent. A real aid to comfort.

8 K 1399—2-ounce can. Shpg. wt. 4 oz. Each **60c**
Two (2-ounce) cans. Shpg. wt. 7 oz. **$1.09**

ELASTIC BANDAGES of high quality



$1.00 2-inch

C Tensor Elastic Bandage. Made with rubber. For varicose veins, dislocations, swellings.

16 feet stretched. Beige color. Washable. Postpaid. (Shipping weight 4 ounces)

Width	Catalog No.	Each
2 inches	8 K 1402	$1.50
3 inches	8 K 1406	1.30
4 inches	8 K 1407	1.45

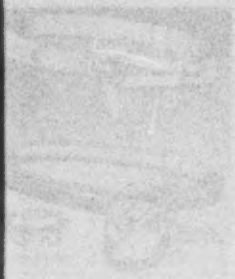
79c 2-inch

D Tube Rubberless Elastic Bandage. Special weave of cotton gives elasticity.

15 feet stretched. Cream color. For varicose veins, sprains.

Catalog No.	Width	Shpg. wt. each	Each	Two for
8 K 1446	2 in.	2 oz.	79c	$1.49
8 K 1448	3 in.	3 oz.	98c	1.89
8 K 1449	4 in.	4 oz.	$1.39	2.69

Trusses are available on Sears Easy Payment Terms. For details, see inside back cover











PLAINTIFF'S EXHIBIT SS.

Clerk #2154 – E.C. Powell Reporter

Mar. 27-1957

Pltf's Ex. SS

NEW SEARS ATHLETIC TRUSS

- New comfort for the active man
- Designed by a doctor for your safety
- Perfect to wear for work or sports
- Safer when bending, reaching, squatting





Wear *SEARS APPROVED* Truss for maximum protection

- 3-contact pads for your comfort
- Pads double anchored, cannot slip
- Comfortable, flexible rubber front

$7.49 Inguinal style

To give you new comfort when you wear a truss, Sears brings you this newly-designed Athletic Truss with 3-contact pads. Sensational new double-anchor pad does not slip or shift . . . it's similar to holding hernia with 3 fingers. Made of flexible rubber, it contacts hernia at 3 necessary points. This new painless pad compresses inguinal canal, in addition holds inner ring and outer ring of canal. Truss conforms perfectly to shape of abdomen . . . no bulge to show underneath clothing. The new *SEARS APPROVED* Athletic Truss is designed by a doctor to hold reducible hernia even though you do strenuous work or exercise. See your own doctor! Flexible rubber front, elastic webbing, non-cutting leg bands. Washable. A truss in which you can feel safer, whether bending, squatting, or coughing! Even sizes 30 to 42. *State waist measurement.* Two styles: for inguinal hernia and for scrotal hernia. Shpg. wt. 15 oz.

8 D 1327—*Inguinal style truss.* Two pads, especially designed for inguinal rupture.....$7.49

8 D 1328—*Scrotal style truss.* Two pads, designed for more advanced cases of scrotal rupture.....$8.49

SCROTAL TYPE TRUSSES

The Scrotal style trusses to support low reducible ruptures firmly and comfortably. Equipped with understraps to hold pad in position effectively. All exposed metal parts are highly nickel plated and highly polished. *Sears Approved* for high quality. *Please give measurements.*

$4.98 Elastic Style

A Elastic Scrotal Style. Pouch of elastic mesh with elastic inserts for support. Adjustable understrap. Cloth waistband with elastic insert. Adjustable strap. Two adjustments assure comfort at front of pouch. Pad is covered with soft leather. Leather-covered steel spring. Comes in even sizes 32 to 44. *State waist measurement and whether for right or left side.* Shipping weight 1 lb. 8 oz.

8 D 1311—Single.....$4.98

8 D 1312—Single.....$6.98

B Scrotal Style Spring Truss. Adjustable "anti-slip" pad covered with corrugated rubber to grip body better. Well-padded spring, leather-covered. Adjustable rubber understraps and belt. Sizes 32 to 42. See chart at Measure below. *State measurements and whether for right or left side.* Wts. 12 oz.

8 D 1313—Single.....$6.98

8 D 1314—Double.....$8.98



HOOD STYLE TRUSSES

The Hood style trusses for support of high, intermediate, or low type reducible ruptures. Resilient steel springs. Rigid front, back opening. Single style has dummy pad on unaffected side. *Sears Approved* for high quality. At Sears satisfaction is guaranteed!

$5.98 Standard, Single

C Standard Hood Style. Pads and steel springs covered with good quality leather. Pads are adjustable. Even sizes 32 to 42. See How to Measure below. *State measurement and whether for right or left side.* Shpg. wts. 1 lb. 2 oz.; 1 lb. 4 oz.

8 D 1348—Single.$5.98

8 D 1349—Double..$6.98

D Plastic Hood Style. Pads and springs covered with smooth, lightweight plastic. Easy to clean! Won't absorb odors. Sizes 30 to 42. *Please state measurement and whether for right or left side.* Shipping weights 1 lb. 1 oz.; 1 lb. 3 oz.

8 D 1315—Single.$8.98

8 D 1316—Double..$9.98

FRENCH STYLE

$3.98 Single

For restricting high or intermediate reducible ruptures. Adjustable pad. No understraps. *Sears Approved!*

E "Grip-Tite" Model. Special fixture makes anti-slip rubber pad easily adjustable. Leather-covered, padded steel springs. Even sizes 32 to 44. *State measurement and whether for right or left side.* Shpg. wts. 1 lb.; 1 lb. 4 oz.

8 D 1385—Single....$3.98

8 D 1386—Double...$.98

ELASTIC STYLE

$3.98 Single

Gives light pressure, comfortable support in less severe cases of high or intermediate reducible rupture.

F "Air Cushion" Style. *SEARS APPROVED.* Corrugated rubber pad. Elastic webbing. Even sizes 32 to 42. *State measurement.* Shpg. wts. 8 oz.; 12 oz.

8 D 1303—Single. Fits right or left side....$3.98

8 D 1304—Double...4.98

UMBILICAL TRUSS

$4.69 Each

G Gives secure support for navel ruptures. Soft sponge rubber pad. *Sears Approved* for your protection.

Elastic band permits free movement of the body. Washable. Comes in even sizes 34 to 44. In measuring, take snug measurement around body at navel. Please *state this exact measurement.* Shpg. wt. 1 lb. 4 oz.

8 D 1314—Only.....$4.69

UMBILICAL-APPLIANCE POWDER

Makes truss support feel better. Absorbs perspiration, odors. Is a boon to those who must wear trusses. Shipping wt. 4 oz.

8 D 1397—One.....$1.00

Two (2).....$1.95

Be sure to state if truss is of rubber or elastic when you order. Also state which side truss is worn on. Be sure to state style of truss you have.



HOW TO MEASURE FOR TRUSSES. Draw tape measure around body in direct line with point of rupture, as shown above. Take snug measurement over bare skin—do not measure over clothes. Send us this exact measurement. (Do not send waist measurement except for 8D1327 and 8D1328.)

Note: For larger sizes than those listed, order the style you want at price shown. We will get it for you at no extra charge. Allow 60 days for special sizes. Sorry, no C.O.D. orders.



Elastic Webbing for Trusses. Good quality cotton woven over strands of heavy rubber. *Measure webbing over hard, order same width.*

Width inches	Catalog No.	Shpg. wt. each	Price yard
⅝	8 D 1300	2 oz.	49c
1½	8 D 1301	3 oz.	69c
1¾	8 D 1305	4 oz.	79c
2	8 D 1302	4 oz.	89c

Order SEARS APPROVED *Trusses for proper fit and long wear. Satisfaction guaranteed.*



73c

3-inch stretched. Cream color. For varicose veins, sprains. 2-inch, 3-inch, and 4-inch widths reduced in price from last fall.

Catalog No.	Width	Shpg. wt. each	Each	Two for
8 D 1446	2 in.	2 oz.	73c	$1.39
8 D 1448	3 in.	3 oz.	99c	1.69
8 D 1449	4 in.	4 oz.	$1.19	2.19
8 D 1408	5 in.	4 oz.	1.59	2.98
8 D 1409	6 in.	4 oz.	1.79	3.38

H Rubberized Elastic Bandage. Special weave of cotton gives elasticity. 15 feet long. Cream color. For varicose veins, sprains. 2-inch, 3-inch, and 4-inch widths reduced in price from last fall.



SUSPENSORIES . . Sears guarantees quality!

49c Each

K Single-Strap Style. Fits without understraps. Knit cotton pouch. Adjustable waistband of cotton webbing. Washable.

Please state choice: medium or large size pouch.

8 D 1478—Shipping wt. each 2 oz.....Each 49c

Two for only.....97c

J Army-Navy Style. Pouch of cotton mesh bound in braid. Adjustable elastic understraps and waistband. Washable. *Please state choice of medium or large size pouch.*

8 D 1476—Shpg. wt. 3 oz.....Each 79c

Buy 2 and save. Shpg. wt. 5 oz.....Two for only.....$1.49

L SEARS APPROVED. Seamless pouch shaped to fit properly. Leg openings of adjustable elastic understraps and Washable. *Please state choice of medium or large size pouch.* Exceptional value!

8 D 1480—Shpg. wt. 3 oz.....Each $1.15

Two for only.....$2.19

All trusses are available on Sears Easy Payment Terms. For details, see inside back cover



PLAINTIFF'S EXHIBIT TT.

Civil # 2150
mar. 27-1951

Plfs Ex. TT, E.C. Pruitt Reporter

Utmost comfort for active men!

SEARS APPROVED Athletic Truss gives positive 3-way support

- Designed by a doctor for your safety
- Perfect to wear for work or sports
- Safer when bending, reaching, squatting



- 3-contact pads for your comfort
- Pads double anchored, cannot slip
- Comfortable, flexible rubber front

$7.49 Inguinal style

To give you the utmost comfort when you wear a truss, Sears brings you this scientifically-designed Athletic Truss with 3-contact pads. Semanti nal double-anchor pad does not slip or shift . . . it's similar to holding hernia with 3 fingers. Made of flexible rubber, it contacts hernia at 3 necessary points. This patented pad encompasses inguinal canal, in addition holds inner ring and outer ring of canal. Truss conforms perfectly to shape of abdomen . . . no bulge to show underneath clothing. The *SEARS APPROVED* Athletic Truss is designed by a doctor to hold reducible hernia even though you do strenuous work or exercise. See your own doctor! Flexible rubber front, elastic webbing, non-cutting leg bands. Washable. A truss in which you can feel safer, whether bending, squatting, or coughing! Even sizes 30 to 42. *State waist measurement.* Two styles: for inguinal hernia and for scrotal hernia. Shpg. wt. 15 oz.

0 E 1327—Inguinal style truss. Two pads, especially designed for inguinal rupture $7.49

0 E 1328—Scrotal style truss. Two pads, designed for more advanced cases of scrotal rupture 8.49



A B

SCROTAL TYPE TRUSSES

Use Scrotal style trusses to support low reducible ruptures firmly and comfortably. Equipped with understraps to hold pad in position effectively. All exposed metal parts are heavily nickel plated and highly polished. *Sears Approved* for high quality. *Please give exact measurements.*

$4.98 Elastic Style

A Elastic Scrotal Style. For mild cases of rupture. Elastic webbing waistband. Cloth understrap. Two tension straps at front control position and pressure of leather-covered scrotal pad. Comes in even sizes 32 to 42. See How to Measure below. *Please be sure to state measurement, also state whether for right or left side.* Shipping weight 11 ounces.

0 E 1312—Single. . $4.98

B Scrotal Style Spring Truss. Adjustable "semi-rigid" pad covered with corrugated rubber to grip body better. Well padded spring. Leather-covered. Soft rubber waistband. Even sizes 30 to 42. See How to Measure below. *Please be sure to state measurement; also state whether for right or left side.* Shpg. wts. 1 lb., 12 oz.

0 E 1394—Single. $6.9

0 E 1395—Double. . $8.5



C D E F G

HOOD STYLE TRUSSES

Use Hood style trusses for support of high, intermediate, or low type reducible ruptures. Resilient steel springs. Rigid front, back opening. Single style has dummy pad on unaffected side. *Sears Approved* for high quality. At Sears satisfaction is guaranteed!

$5.98 Standard Single

C Standard Hood Model. Pads and steel springs covered with good quality leather. Pads are adjustable. Even sizes 32 to 42. See How to Measure below. *State measurement and whether for right or left side.* Shpg. wts. 1 lb. 2 oz.; 1 lb. 4 oz.

0 E 1245—Single. . $5.98

0 E 1246—Double. . $6.98

D Plastic Hood Style. Pads and springs covered with smooth, lightweight plastic. Easy to clean! Won't absorb odors. Sizes 30 to 42. *Please state measurement and whether for right or left side.* Shipping weights 1 lb. 1 oz.; 1 lb. 3 oz.

0 E 1315—Single. . $8.98

0 E 1316—Double. . $9.98

FRENCH STYLE

$3.98 Single Standard

For restricting high or intermediate reducible ruptures. Adjustable pad. No understraps. *Sears Approved!*

G "Strip-Tite" Model. Special feature makes anti-slip rubber pad easily adjustable. Leather-covered, padded steel springs. Even sizes 32 to 44. *State measurement and whether for right or left side.* Shipping weights 1 pound; 1 pound 4 ounces.

0 E 1305—Single. . $3.98

0 E 1306—Double. . $3.98

ELASTIC STYLE

$3.98 Single Standard

Gives light pressure, comfortable support in less severe cases of high or intermediate reducible rupture.

F "Air Cushion" Style. *SEARS APPROVED.* Cushioned rubber pad. Elastic webbing. Even sizes 32 to 42. *State measurement.* Shpg. wts. 8 oz.; 12 oz.

0 E 1303—Single. . $3.98

Fits right or left side.

0 E 1304—Double. . $4.98

UMBILICAL TRUSS

$4.69 Each

G Gives secure support for navel rupture. Soft sponge rubber pad. *Sears Approved* for your protection.

Elastic band prevents free movement of the body. Washable, easy to keep sanitary. Comes in even sizes 34 to 44. In measuring, take snug measurement around body at navel. *Please state distance measurement.* Shpg. wt. 1 lb. 4 oz.

0 E 1314—Only. . . . $4.69

SURGICAL-APPLIANCE POWDER

Makes any support fit better. Made especially for use with surgical appliances. Acts as a non-irritating cushion between support and body. Shipping wt. 1 oz.; 2 oz.

0 E 1399—3-oz. can. 60

Two (2-oz.) cans for . $1.

Do you need a truss? If so, we suggest you see your family doctor or the style of truss to buy.

You may buy trusses on Sears Easy Terms. For details, see inside back cover.

HOW TO MEASURE







H J K

Elastic Webbing for Trusses. Good quality cotton woven over strands of heavy rubber. Measure webbing over naked body, not over clothes. Send no risk—your money back if not entirely satisfied. (Do not send webbing measurement for 0E1327 and 0E1328.)

Width	Catalog No.	Shpg. Wt.	Price
½ in.	0E1300	2 oz.	49c
¾ in.	0E1301	3 oz.	69c
1¼ in.	0E1302	4 oz.	79c
2 in.	0E1303	4 oz.	89c

Order SEARS APPROVED Trusses for prompt delivery and long wear. Satisfaction guaranteed.

73c 2-inch

Rubberless Elastic Bandage. Special weave of cotton threads gives it extra stretch. Length, when stretched, about 11 feet. Cream color. For various sizes, dimensions, coverings, and aprons. Receive even tension.

Catalog No.	Width	Shpg. wt. Each	Each	Two for
0 E 1444	3 in.	2 oz.	73c	$1.39
0 E 1445	3 in.	3 oz.	99c	1.89
0 E 1446	4 in.	4 oz.	$1.10	2.10
0 E 1447	4 in.	5 oz.	1.39	2.69
0 E 1448	6 in.	4 oz.	1.79	3.39

SUSPENSORIES . . priced low at Sears!

$1.49 Each

I Single-Strap Style. Fits without understraps. Knit cotton pouch. Adjustable fastener of cotton webbing. Washable. *Please be sure to state whether medium or large size pouch.*

0 E 1478—Shpg. wt. each 2 oz. . . Each 49c

Two for only. 93c

J Army-Navy Style. Pouch of cotton mesh bound in knit. Adjustable elastic understraps and waistband. Washable. *State choice of medium or large size pouch.*

0 E 1476—Shpg. wt. 3 oz. . . . . Each 79c

Buy 2 and save. Shpg. wt. 5 oz. Two for only $1.49

K SEARS APPROVED. Seamless rayon pouch designed to be properly held in position. Adjustable elastic understraps and waistband. Washable. *Please state choice of medium or large size pouch. Experienced wearers!*

0 E 1480—Shpg. wt. 3 oz. . . . . Each $1.15

Buy 2 and save! Shpg. wt. 5 oz. Two for only $2.19

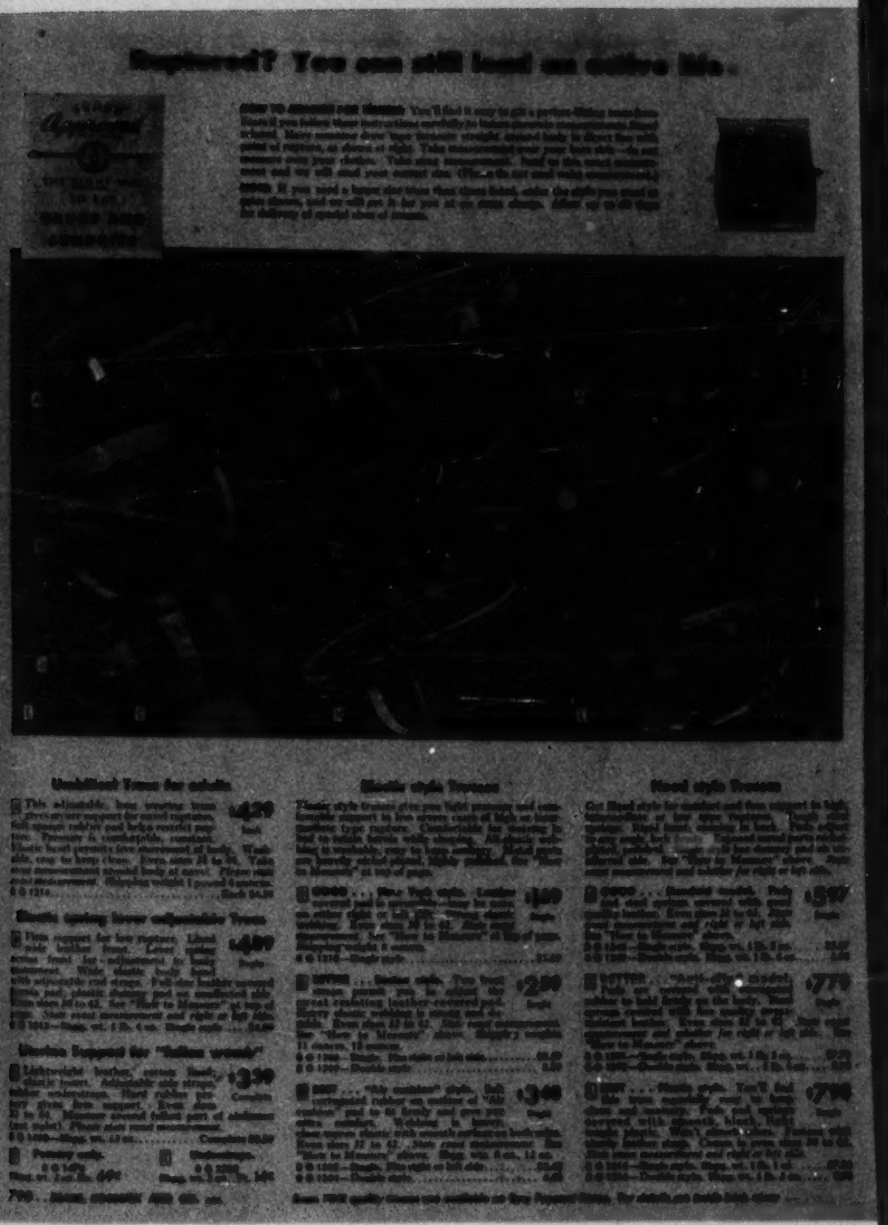
Read interesting articles in the field of medicine in Americana Peoples Encyclopedia. For Encyclopedia, see Index



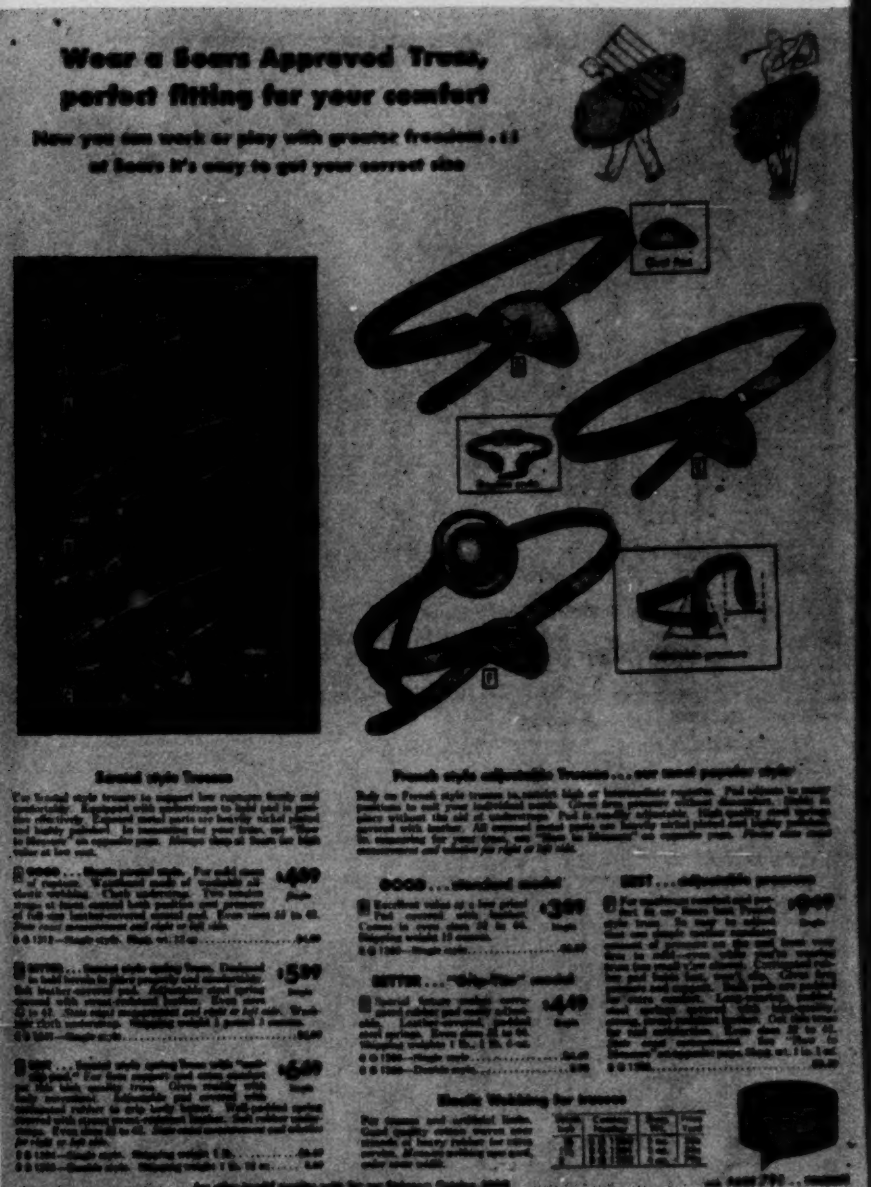
Group C.

The exhibits are the type advertisement which under the Court of Appeals decision prevented the catalog and other advertisement (shown in the immediately preceding exhibits) from attaining secondary meaning.

DEFENDANT'S EXHIBIT NO. 21.



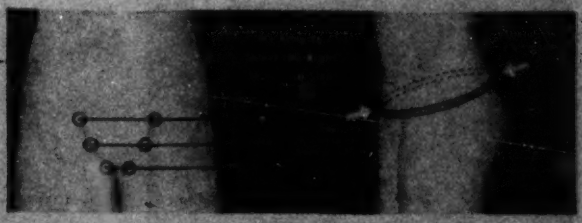
DEFENDANT'S EXHIBIT NO. 21.



DEFENDANT'S EXHIBIT NO. 29.

Are you ruptured? Why not try a Sears truss?





Which style truss do I need?

How to measure



Head style Spring Trusses

Scrotal style Spring Trusses



Elastic style Trusses for milder cases of hernia

DEFENDANT'S EXHIBIT NO. 29.

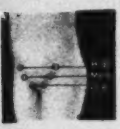


DEFENDANT'S EXHIBIT NO. 79.

For proper support and comfort, select a suitable truss

It's easy to get a perfect fitting Truss at Sears

Which style Truss shall I buy?



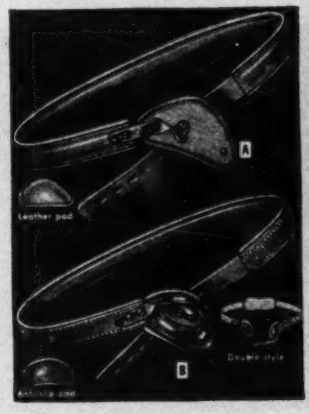
Ruptures are generally classified into 3 types—high, medium and low. Choose below the style truss which best fits your needs.

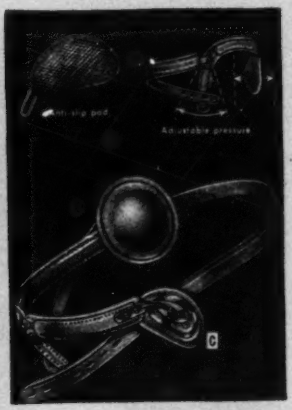
Hood style Steel Spring Truss . . . Widely used to restrict high, low or medium-type ruptures.

French style Steel Spring Truss . . . Best used to restrict the medium or high type of rupture.

Scrotal Style Steel Spring Truss . . . A heavy-duty truss designed for low ruptures.

Elastic style Trusses . . . For milder cases of rupture where only mild support is needed.





"Now I can work"



French Style Spring Trusses

GOOD . . . Standard Model

A For high or intermediate ruptures. Leather covered steel spring is sweat-resistant, designed to fit contour of the body. Leather covered pad. Adjustable. Even sizes: 32 to 44. See "How to Measure" on opposite page. *Please state (1) exact measurement (2) right or left side.* **$3.89** Single

8 D 1362—Shipping weight, 15 oz. . . . . Single style $3.89

BETTER . . . "Grip-Tite" Model

B Special fixture makes pad adjustable to any position. Padded steel spring covered with sweat-resistant cowhide leather. Rubber pad corrugated to prevent slipping. For high or medium-type ruptures. Even sizes: 32 to 44. See "How to Measure" on opposite page. *Please state (1) exact measurement and (2) right or left side.* **$4.49** Single

8 D 1365—Shipping wt., 1 lb. . . . . Single style $4.49
8 D 1366—Shipping wt., 1 lb. 4 oz. . . . . Double style 4.98

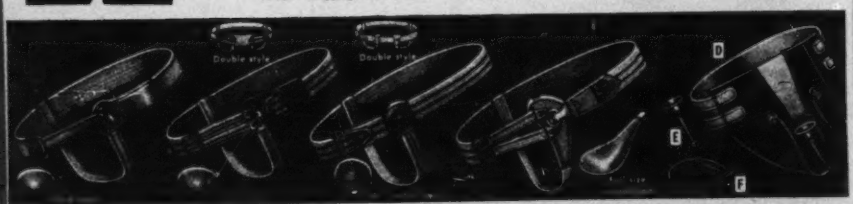
BEST . . . Adjustable Pressure model

C
- Adjustable to regulate pressure
- Anti-slip corrugated rubber pad
- Padded back pad gives extra comfort
- Rust-resistant steel spring covered with high grade sweat-resistant cowhide leather

$8.98 Single

This truss, our best model, retains rupture firmly without the aid of understraps, with a comfortable tension, and is completely adjustable. So easy to adjust that one simple motion will regulate the amount of pressure from very firm to very mild . . . even while wearing truss. (See small view above.) Pads adjust in place and won't slip. Leather covered back pad rests securely and comfortably in small of back. Rust-resistant steel spring is covered with high grade sweat-resistant cowhide leather. To restrict high or medium-type ruptures. Even sizes: 32 to 42. See "How to Measure" on opposite page. *Please state (1) exact measurement (2) whether for right or left side.* Single style only.

8 D 1383—Shipping weight, 1 pound 1 ounce. $8.98



New York Style Truss

Lightweight, yet gives firm support. All-elastic cotton webbing. Leather-covered pad fits right or left side. Understraps hold truss firmly in place. Washable. Even sizes: 30 to 42. See "How to Measure" on opposite page. *Please state exact measurement.* Shpg. wt., 8 oz. **$1.39** Single

8 D 1310—Single style . . $1.39

Boston Style Truss

Two front straps adjust leather-covered pad. All-elastic webbing. Washable. Even sizes: 32 to 42. *Be sure to state exact measurement.* See "How to Measure" on opposite page. Shpg. wts., single style, 11 oz.; double, 15 oz. **$2.59** Single

8 D 1308—Single (fits right or left side) $2.59
8 D 1309—Double style . . 3.59

"Air-Cushion" Truss

Extra comfortable "air-cushion" pad has soft rubber corrugated surface—won't slip. All elastic webbing. Washable. Understrap holds pad in place. Even sizes: 32 to 42. See "How to Measure" on opposite page. *Please state exact measurement.* Shipping weights, 8 oz. and 12 oz. **$3.48** Single

8 D 1303—Single style. fits right or left side. $3.48
8 D 1304—Double style. . . 4.48

Scrotal Style Truss

Adjustable full-size leather-covered pad; 2 tension straps control position and pressure of pad. All elastic webbing. Understrap holds pad firmly in place. Washable. Even sizes: 32 to 42. See "How to Measure" on opposite page. *Be sure to state (1) measurement and (2) whether for right or left side.* Shipping weight, 12 ounces. **$4.89** Single

8 D 1312—Single style. . . $4.89

Womb Supporters

D Lightweight leather, cotton lined; elastic insert. Adjustable side straps, rubber understraps. Hardrubber pessary. Even sizes: 32 to 44. *Measure around fullest part of abdomen (not waist). State measure.* **$3.48** Each

8 D 1460—Shpg. wt., 13 oz. $3.48

Replacement Accessories

E 8 D 1474—Pessary Shpg. wt., 2 oz. Each. . . .49c
F 8 D 2323—Understraps Shpg. wt., 2 oz. Pair. 14c









DEFENDANT'S EXHIBIT NO. 79.

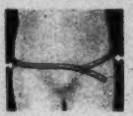
Def's Ex. 79

Sears offers top quality, perfect fit, low prices

Popular style Trusses for both men and women



How to Measure for Trusses



Stand relaxed. Have someone draw tape measure straight around body in direct line with point of rupture as shown at left. Take measurement over your bare skin; do not measure over clothes. Take snug measurement. Send this exact measurement. (Do not send waist measurement).

Note: If you need a larger size truss than those listed, order your selection at price shown, and we will get it for you at no extra charge. Allow up to 60 days for delivery of special sizes of trusses.

Hood style Spring Trusses

Standard Model

A For high, medium and low ruptures. Leather-covered pads and springs. Rigid front principle; back fastening. Single style has dummy pad on unaffected side. Even sizes: 32 to 42. See "How to Measure" above at right. *State (1) exact measurement; (2) right or left side.*

$5.97 Single

8 D 1340—Shpg. wt., 1 lb. 2 oz. ..... Single style $5.97
8 D 1340—Shpg. wt., 1 lb. 4 oz. ..... Double style 6.96

De luxe Model "Anti-Slip Pad"

B Front and back pads covered with corrugated non-slip rubber. Adjustable. Leather-covered steel spring. Single style has dummy pad on unaffected side. Even sizes: 32 to 42. See "How to Measure" above at right. *State (1) exact measurement, and (2) right or left side.*

$7.79 Single

8 D 1391—Shpg. wt., 1 lb. 2 oz. ..... Single style $7.79
8 D 1392—Shpg. wt., 1 lb. 4 oz. ..... Double style 8.98

Scrotal style Spring Trusses

Standard . . . Single Style

C Soft leather-covered pad. Adjustable steel spring covered with sweat-resistant cowhide. Washable cloth understrap. Designed for low ruptures; gives comfortable pressure and is easily adjustable. Even sizes: 32 to 42. See "How to Measure" above at right. *State (1) exact measurement, and (2) whether for right or left side.*

$5.89 Single

8 D 1341—Shpg. wt., 1 lb. 3 oz. ..... Single style $5.89

De luxe Style . . . "Anti-slip pad"

D Adjustable corrugated rubber-covered pad grips body firmly. Well-padded spring is covered with genuine cowhide leather. Rubber understraps. For low ruptures. Even sizes: 32 to 42. See "How to Measure" above at right. *State (1) exact measurement, (2) right or left side.*

$6.69 Single

8 D 1394—Shpg. wt., 1 lb. ..... Single style $6.69
8 D 1395—Shpg. wt., 1 lb. 12 oz. ..... Double style 8.69

"I'm active again"





London Type Supporter

Fine support for wear after hernia operation, as it gives firm support over entire area without restricting abdominal muscles. Two large soft pads joined together by knitted elastic. Sturdily constructed body band is adjustable. Supplied with understraps, to be worn as needed. Washable. Even sizes 28 to 44 in. *State exact hip measurement (not waist).* See "How to Measure", Page 110-114.

$2.69 Each

8 D 1305—Shpg. wt., 12 oz. ..Each $2.69

Post Operative Belt

For wear after operations, for fallen stomach, or for a general abdominal support for those suffering from obesity. Strong buckle back adjustment. Correctly placed straps form a positive lift support to the lower abdomen. Knitted elastic sections on each side. Washable. Even sizes 30 to 48 in. *Measure around fullest part of abdomen (not waist).* See "How to Measure", Page 110-114.

$4.69 Each

8 D 1306—Shpg. wt., 12 oz. ...Each $4.69

Sears Approved

Our de luxe model. Self-adjusting. Seamless rayon pouch shaped to fit properly. Low opening helps prevent constriction. Adjustable understraps and waistband. Washable. *State medium or large size pouch.* Shpg. wt., 3 oz.

$1.15 Each

8 D 1480.....Each $1.15

Army-Navy Style

For firm, comfortable support. Adjustable understraps. Cotton sack is bound with braid for longer wear. Washable. *State medium or large size pouch.* Shpg. wt., 3 oz.

47c Extra

8 D 1475—Knitted Sack Each.....47c
8 D 1476—Mesh Sack.67c

Single Strap Style

Fits without understraps. Pouch has soft cotton edges. Adjustable waistband. Firm, comfortable support. Washable. *State medium or large size pouch.* Shpg. wt., 2 oz.

37c Cotton

8 D 1478—Cotton....37c
8 D 1479—Rayon and Cotton..... 57c

Trusses and belts on both these pages may be ordered on Easy Payment Terms. See inside Back Cover for full details

8 CORRECTED COPY p. 28

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FILED
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HAROLD B. WILLEY, Clerk

IN THE

Supreme Court of the United States

OCTOBER TERM, 1953.

No. 374

CHARLES F. HARAD, and SARA E. HARAD, Co-Partners Doing Business as INDUSTRIAL ENGINEERING ASSOCIATES,

Petitioners,

vs.

SEARS, ROEBUCK & CO.,

Respondent.

BRIEF FOR RESPONDENT IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI.

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The Scheffer Press, Inc.—ANdover 3-6850

INDEX.

PAGE

Opinion Below 1

Jurisdiction 2

Questions Presented 2

Statement of the Case 3

Reasons For Denying The Writ 12

Conclusion 25

Appendix—Exhibits 26

AUTHORITIES CITED.

Cases.

Allen B. Wrisley Co. v. Iowa Soap Co., 122 Fed. 796 (8 Cir., 1903) 17

American Fork & Hoe Co. v. Stampit Corporation, 125 F. (2d) 472 (6 Cir., 1942) 17

Sinko v. Snow-Craggs Corp., 105 F. (2d) 450 (7 Cir., 1939) 18

Coats v. Merrick Thread Co., 149 U. S. 562 (1893) 17

Distillers Brands, Inc. v. American Distilling Co., 26 F. Supp. 988 (D. C., N. Y., 1938) 17

G. H. Mumm Champagne v. Eastern Wine Corp., 142 F. (2d) 499 (2 Cir., 1944), *cert. denied*, 323 U. S. 715 (1944) 18

International Heating Co. v. Oliver, 288 Fed. 708 (8 Cir., 1923) 15, 16

J. C. Penney Co. v. Lee Mercantile Co., 120 F. (2d) 949 (8 Cir., 1941) 15, 16

Kellogg Co. v. National Biscuit Co., 305 U. S. 111 (1938) 17

PAGE

Kellogg Co. v. Quaker Oats Co., 235 Fed. 657 (6 Cir., 1916) 17

Magnum Co. v. Coty, 262 U. S. 159 (1923) 25

Mathews Conveyer Co. v. Palmer-Bee Co., 135 F. (2d) 73 (6 Cir., 1943) 17

Meem-Haskins Coal Corp. v. Central Fuel Corp., 137 F. (2d) 242 (CCPA, 1943) 22

Orvis v. Higgins, 180 F. (2d) 537 (2 Cir., 1950) 20

Radio Corporation of America v. Decca Records, 51 F. Supp. 493 (D. C., N. Y., 1943) 25

Reynolds & Reynolds Co. v. Norick, 114 F. (2d) 278 (10 Cir., 1940) 21

S. R. Feil Co. v. John E. Robbins Co., 220 Fed. 650 (7 Cir., 1915) 18

Seven-Up Co. v. Cheer-Up Sales Co., 148 F. (2d) 909 (8 Cir., 1945) *cert. denied,* 326 U. S. 727 15

Skinner Mfg. Co. v. General Foods Sales Co., 52 F. Supp. 432 (D.C., Neb., 1943) *aff'd.* 143 F. (2d) 895 (8 Cir., 1944) 15, 16

Steem-Electric Corp. v. Herzfeld-Phillipson Co., 118 F. (2d) 122 (7 Cir., 1940) 16

Stix, Baer & Fuller Co. v. Alfred J. Sweet Co., 49 F. (2d) 598 (8 Cir., 1931) 12

U. S. v. U. S. Gypsum Co., 333 U. S. 364 (1948) 19

Viavi Co. v. Vimedia Co., 245 Fed. 289 (8 Cir., 1917) ..15, 17

Zangerle & Patterson Co. v. Venice Furn. Novelty Mfg. Co., 133 F. (2d) 266 (7 Cir., 1943) 18

Statutes.

Rule 52(a), Federal Rules of Civil Procedure (28 U.S.C.A. 13) 19

IN THE

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OCTOBER TERM, 1953.

No. 374

CHARLES F. HARAD, and SARA E. HARAD, Co-Partners Doing Business as INDUSTRIAL ENGINEERING ASSOCIATES,

Petitioners,

vs.

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Respondent.

BRIEF FOR RESPONDENT IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI.

OPINION BELOW.

The findings and conclusions of the District Court are set out in the Transcript of the Record at pages 510-22, 528 and 529-30; the District Court rendered no opinion. The opinion of the Court of Appeals for the Seventh Circuit is reported at 204 F. (2d) 14 (R. 546).[1]

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[1] For ease of reference, a reference to the Transcript of the Record in the trial court will be abbreviated by the letter "R", a reference to the book of exhibits entitled "Appellant's and Appellees' Exhibits—Appendix To Appellant's Brief" will be abbreviated by the letters "BE", and a reference to the Appendix to this brief by the letter "A".

JURISDICTION.

The jurisdictional statement set forth on page 2 of the Petition for Writ of Certiorari is not challenged.

QUESTIONS PRESENTED.

Under the heading "Questions Presented" on page 2 of the Petition for Writ of Certiorari, Petitioners have failed to set forth the precise questions apparently sought to be answered in Petitioners' "Reasons For Granting The Writ" set forth beginning on page 10 of the Petition.

Instead of at this point enumerating the questions presented, Petitioners have listed four items purporting to be findings of the trial court. Respondent notes that two of these purported findings (2 and 3) were not "found" by the trial court. Number 2 is erroneous as Respondent was not found to be a "distributor" for Petitioners. Number 3 is erroneous as Respondent was not found to have "suddenly dropped" Petitioners nor to have "substituted an imitation of Petitioners' product." Respondent makes further comment on these statements hereafter in this brief.

From a reading of the Petition it is believed that Petitioners intended to present at this point the following questions:

1. Does the decision of the Court of Appeals for the Seventh Circuit in this case conflict with the decisions of the Court of Appeals for the Eighth Circuit?

2. Is there one yardstick for measuring unfair competition for the large business man and another for the smaller business man?

STATEMENT OF THE CASE.

INTRODUCTION.

This is a common law suit for alleged unfair competition and trade-mark infringement brought against a retail and mail order merchandising concern (hereafter referred to as SEARS), by Petitioners, a supplier of a truss which for about two years was sold by Sears (Petitioners will hereafter be referred to in the singular as Harad). Harad's unpatented truss was *not* suddenly dropped by Sears and a new truss substituted therefor, as alleged in pages 4 and 10 of the Petition. On the contrary, after notice to Harad of its intention, Sears continued to offer Harad's truss along with a new, improved and patented truss, the two trusses being offered through different branches of Sears' business (R. 392).

The specific complaint of Harad was that Sears' catalog advertising of a new truss was similar in character to Sears' prior catalog advertising of Harad's truss, despite the fact that in both advertisements Sears offered the product only as a SEARS APPROVED (a registered Sears' trade-mark) truss and displayed no reference to the manufacturer in either case (A. 44, 47, 49).

As a make-weight, Harad, in an amendment to the complaint, threw in a charge of trade-mark infringement, alleging (R. 23) that a picture of a runner with the words ACTIVE MAN—CHICAGO on the new truss constituted an infringement of Harad's descriptive trade-mark SPORTSMAN, registered only on the Supplemental Register under the 1946 Trade-Mark Act over one year *after* Harad filed his complaint in the District Court (R. 501).

Although the trial court adopted Harad's view of the case, even to the extent of assessing statutory treble damages (R. 531-533) (notwithstanding that this was *not* a

statutory but a common law action), the Court of Appeals repudiated the judgment of the trial court, calling the trial court's findings as to secondary meaning *"clearly erroneous"* (R. 551); calling the trial court's finding that Sears' trade-mark was an imitation and an infringement of Harad's SPORTSMAN trade-mark *"clearly erroneous"* (R. 553), and also calling the trial court's findings of actual confusion *"clearly erroneous"* (R. 554). The Court of Appeals (R. 550), emphatically stating that *"the undisputed documentary evidence shows the direct contrary"* of the findings of the trial court with regard to the catalog advertising complained of, held that Sears had used, separately and in combination, in the advertising of Sears' trusses long before and up to the time that Harad entered the truss business, all of the advertising features claimed by Harad to have been plagiarized by Sears.

The Court of Appeals' conclusion, therefore, was that Sears had not wronged Harad as alleged and completely reversed the judgment of the trial court.

A reading of the Petition for Certiorari in this case, we submit, fails to reveal any ground whatever justifying this Court's granting of the writ.

THE FACTS.

For a period of over thirty years SEARS sold trusses, including the "elastic" type involved in this case, for the relief of rupture or hernia, in both its retail stores and through its mail order channels.

Sears' mail order customers make their selections from Sears' catalogs. Sears advertised in those catalogs trusses manufactured by the world's largest maker of trusses and other leading truss makers (R. 133, 164, 165). Regardless of the maker of the particular truss, Sears' catalog advertising carried the name of Sears, Roebuck and Co. and

Sears' registered trade-mark, SEARS APPROVED, for trusses and surgical goods. It became customary for Sears not to disclose the maker's name in Sears' catalogs (BE. 22-47; R. 274; A. 34-41).

During this period a style of illustrating and advertising trusses in its catalogs was developed by Sears, as well as by the entire truss industry, and certain advertising features became common in the trade. Cuts of the trusses were illustrated showing, without exception, the truss belt in an oblique loop arrangement with its straps hanging either loosely or attached to the truss. The common crescent, round or egg-shaped pads were illustrated and featured with the trusses. Line drawings and photographs of men engaged in physical activity, at work or at play, were originated and used in the truss ads to illustrate that a sufferer from hernia or rupture could be active again if he wore any one of the numerous Sears' trusses. Undraped figures of the human anatomy were utilized to impart scientific information and to instruct the purchaser in the wearing of the truss. The common and obviously successful advertising feature of descriptive statements in columnar formation preceded by dots was employed by Sears. Slogans were originated and used, such as LEAD AN ACTIVE LIFE and PERFECT FIT FOR YOUR COMFORT, etc. (BE. 1-35, 65-73; R. 140, 146, 152, 187, 188, 195, 214; A. 34-41).

All of these features, *viz.*, the illustrative cut of a truss with the truss pads (which the evidence disclosed always has been and is the only way of illustrating a truss (R. 140, 182), but which Harad claimed he originated), the line drawings and photographs of men at work and play, such as golfers, bowlers, laborers, farmers, etc., figures of the human anatomy, descriptive statements in column formation preceded by dots, and the slogans denoting active life,

comfort, perfect fit, etc., were used by Sears IN COMBINATION as well as singly to sell SEARS' APPROVED trusses (BE. 1-35; A. 34-41).

For example, in Sears' 1945 catalog, all of these features were used IN COMBINATION to advertise Sears' trusses (A. 34, 35). In Sears' 1943 and 1946 catalogs all but one feature were used (BE. 21; A. 37, 38). This same pattern of advertising was found in Sears' catalog truss advertising as far back as the year 1929 (BE. 5-35; R. 195, 196). These features were paid for, owned and originated and the art work created and the ideas developed by Sears and not by the makers of the many trusses Sears sold under its name.

Sears' trusses and other surgical goods were sold, at mail order, packaged in Sears' conventional blue and white carton, usually bearing Sears' registered trade-mark. Here also the maker was not identified on the carton or on any literature in the carton (R. 193, 194, 195).

In 1947, Harad began to sell an unpatented truss, which bore the word SPORTSMAN within an oval (R. 44, 410). Registration of that word as a mark on the Principal Register was refused by the Patent Office as descriptive and Harad acquiesced in such rejection, accepting registration on the Supplemental Register under the 1946 Trade-Mark Act (such registration issuing over one year and two months *after* the lawsuit in this case was filed) (R. 501).

Sears first ordered Harad's truss in the summer of 1947 (R. 263, 264). The contact with Sears was made by Harad's commission salesman, Louis B. Mack, who previously had sold surgical goods for others to Sears' surgical goods buyer, A. J. Steier (R. 216, 412). Mack also sold the Harad truss to Montgomery Ward & Company (R. 99). Contrary to Harad's statement (Petitioners' Brief,

page 4), Sears was not a "distributor" for Harad, but merely purchased the product for resale to the consumer.

The truss delivered by Harad to Sears' mail order houses was packaged in Sears' distinctive *blue and white cartons* (A. 30; BE. 57), conventional for Sears' surgical goods, including trusses, as mentioned above. In accordance with Sears' practice, these cartons had conspicuously printed thereon in three places Sears' registered trade mark, SEARS APPROVED, and also the words SEARS APPROVED TRUSSES ARE SOLD ONLY BY SEARS, ROEBUCK AND CO. Included in the carton was a three-page circular bearing Sears' trade-mark (BE. 79). Neither the carton nor the circular bore either Harad's firm name, address or alleged mark nor did they in any way identify Harad as the maker. Concurrently, Montgomery Ward & Company packaged, sold and advertised the Harad truss in Ward's Green and White carton as "Wards New Athletic Truss" (R. 124, 125, BE. 63). Harad packaged his truss for resale in retail stores in a *red and black* carton (A. 32). These cartons had printed thereon Harad's firm name, "Industrial Engineering Associates", his address and his mark, SPORTSMAN within an oval. A two (and later three) page circular, bearing Harad's firm name, address and alleged mark, was included in this red and black carton (A. 58).

Harad's truss was of the "elastic" type which Sears and the industry had sold for many years (R. 134, 142; BE. 5-35; A. 29-41). Every feature was old, both alone and in combination (R. 134, 155, 156; A. 29). Trusses of this type had not changed much basically in the last 100 years (R. 139). Harad recognized that no exclusive rights on the article could be established inasmuch as he never prayed for an injunction against Sears selling a similar product, although he alleged in his complaint but never proved that his truss was unique and distinctive (R. 2, 23).

Sears proceeded to advertise for about two years in its mail order catalogs the trusses supplied by Harad (A. 44, 47, 49), in much if not identically the same manner as it had advertised other trusses in the past (BE. 5-35). The catalogs involved were Sears' 1948 and 1949 catalogs in which all of Sears' trusses, including Harad's, were advertised (A. 44, 47, 49). As it had done in the past and was currently continuing to do with the trusses of other makers, Sears advertised the Harad truss under the SEARS APPROVED registered trade-mark. In Sears' 1948 catalogs (A. 44, 47), the Harad truss was illustrated by a cut in the same manner as all other Sears trusses and it carried a line drawing of a golfer and of a shoveler. These line drawings were carried over from prior Sears' catalog advertisings of trusses from other sources, *viz.*, the golfer from Sears' 1946 catalog (A. 38) and the shoveler from Sears' 1947 catalog (A. 41). In Sears' 1949 catalog advertising of the Harad truss (A. 49), the truss was again sold under the SEARS APPROVED trade-mark and carried a line drawing of a bowler and of a farmer which had been created by and previously used by Sears (R. 178, 180; A. 35), descriptive statements in column formation preceded by dots and the customary illustrative cut of the truss and pads, all in a manner similar to that previously originated and used by Sears to sell other trusses. *Nowhere* in any of Sears' catalog advertising did Sears use either Harad's firm name, address or SPORTSMAN mark or in any way whatsoever identify Harad with the truss (A. 44, 47, 49).

The undisputable documentary evidence disclosed, as we have stated above, that in advertising Harad's truss in Sears' catalogs Sears had merely continued its customary style of advertising and selling its SEARS APPROVED trusses. The evidence also disclosed that Harad obtained the advertising features for the circular (A. 58) in-

cluded in his red and black carton (A. 32) from Sears' catalogs. For example, the golfer on his circular came from the 1946 catalog (A. 38). The drawing of human anatomy in the circular came from Sears' 1943 and 1945 catalogs (BE. 22; A. 34); the columnar statements preceded by a dot were also taken from Sears' 1943 and 1945 catalogs. And, finally, his slogan, RUPTURED? WEAR A SPORTSMAN ATHLETIC TRUSS on his circular bore marked resemblance to that used by Sears for its trusses in its 1943 catalog—ARE YOU RUPTURED? WHY NOT WEAR A SEARS TRUSS? (BE. 22), as well as to the slogan in Sears' 1946 and 1947 catalogs (A. 38, 41) where Sears said in advertising its trusses, RUPTURED? YOU CAN STILL LEAD AN ACTIVE LIFE. WEAR A SEARS APPROVED TRUSS. PERFECT FITTING FOR YOUR COMFORT.

In 1949, when his commission contract with Harad expired, Mack and a Chicago hernia specialist, Dr. Russell Winters, designed a new truss and pads (R. 223, 224, 323, 333). These new pads were so unique and revolutionary that the Patent Office issued letters patent and Mack sold the truss to Sears and others. This new truss bore a trade mark featuring a picture of a runner surmounted by the words ACTIVE MAN—CHICAGO.

Pads are the most important part of the age-old elastic type truss (R. 226). Whereas the Harad truss pads were conventional, crescent shaped like a quarter moon, the patented Mack truss pads were novel and distinctive (R. 226). The Mack truss pads had three contact points, based on the example of a surgeon holding the patient's hernia with three fingers while the patient coughs (R. 226). Also, the connection of Mack's pad to the truss shield was made fool-proof by two studs rendering it impossible for the pads to swivel out of proper position (R. 227). (Sears had

a number of returns on the Harad truss arising out of structural failures) (R. 220, 281).

On December 8, 1949, Sears notified Harad by the following letter (R. 392) as to Sears' intention to *sales test* the Mack truss through some of Sears' branches of mail order, the while continuing to sell Harad's trusses through its other branches:

> "Dear Doc: We have completed our plans regarding the Sears' Approved Athletic Truss which we purchase from you so far as the Spring 1950 mail order and retail season is concerned. These plans involve #1325 and 1326, trusses as follows:
>
> Both numbers are listed in our 'X' Flyer catalog which is released to our customers approximately January 1, 1950, and has a sales period through March 30, 1950. All houses.
>
> Both numbers are listed in our Spring general catalog which is released approximately January 1, 1950, and continues through June. Philadelphia and Boston only.
>
> Both numbers are authorized for our retail stores for the Spring 1950 period, January through June.
>
> For your information, we are sales testing a truss similar to yours in our Spring 1950 General Catalog, all houses, except Philadelphia and Boston. This truss has been offered to us at a substantially lower price than what we are presently paying you and we feel the quality is comparable. In addition, we believe that this new truss has features not incorporated in the truss which we purchased from you.
>
> After sufficient time has elapsed permitting us to make an analysis of this new truss as compared with numbers 1325 and 1326 trusses, which we purchased from you, we will make a decision as to which of the two trusses we will want to continue promoting. It may be possible that we will want to continue a listing of your truss as well as the one we are purchasing from another source. However, this possibility is very questionable. I personally believe that about March

of next year we will want to make a definite decision on one or the other of the two trusses so we can do a better job for our source by concentrating promotional efforts on the one number.

The promotional program outlined above naturally gives your truss preference over the new one so far as the Spring selling season is concerned and, as a result, your sales to us for this period of time should not be greatly affected by our decision to dropping your merchandise from part of the Spring General catalog branches.

I trust the above is clear to you. However, if you wish any additional information, please contact me."

Less than a month after receiving this letter, Harad sued Sears (R. 2, 78).

In its catalog advertising of the Mack truss in 1950 (A. 52), Sears continued to use and in the same manner all of the advertising features it had always used since 1930 to sell SEARS APPROVED trusses (BE. 5-35; A. 33-44). These were the same features which were originated and developed by Sears and by it owned and paid for, advertising features which had become more or less common in the truss industry. These were the features that Harad himself had borrowed from Sears for his own purposes. Sears used none of the features Harad claimed he either originated, owned, posed or paid for. The Mack truss was advertised as a *NEW* SEARS APPROVED TRUSS and the novel patented pads were prominently displayed.[2] The truss was packaged in a new Sears' blue and white carton (A. 31) and included a new circular, (A. 60), neither of which could be confused with anything previously used by either Harad or Sears.

[2] For a background history of Sears' course and method of advertising trusses over a thirty-year period, see the book of exhibits entitled "Appendix to Appellant's Brief", which is part of the record in the Court of Appeals and has been filed as such in this Court.

The Court of Appeals for the Seventh Circuit reversed the District court's judgment for Harad, a judgment which embraced an injunction, damages and treble damages (although no statute was involved). The Court of Appeals found that:

(1) The undisputable documentary evidence proved that Sears had preceded Harad in the use of the combination of advertising features claimed by Harad and that, accordingly, Harad could not acquire secondary meaning in those features.

(2) The picture of a runner, surmounted by the words, ACTIVE MAN—CHICAGO, is not a substantial duplication of the descriptive printed word SPORTSMAN within an oval; that such marks were shown to be common in the advertising of trusses and that, therefore, there was no infringement of Harad's alleged mark.

(3) No actual confusion on the part of the public was established by the evidence.

(4) Sears had not been proven guilty of unfair competition.

The Court of Appeals found it unnecessary to consider the point that Harad was guilty of misrepresentation in his advertising slogan that his truss was "Designed By an Eminent Physician" which, by Harad's own admission, was false (R. 546-554).

REASONS FOR DENYING THE WRIT.

1. This Decision Does Not Conflict With The Decisions Of The Court Of Appeals For The Eighth Circuit.

Petitioner states as reason for granting the writ that the decision in this case by the Court of Appeals for the Seventh Circuit is directly in conflict with the decision of the Court of Appeals for the Eighth Circuit in 1931 in the case of *Stix, Baer & Fuller Co.* v. *Alfred J. Sweet Co.*, 49 F. (2d) 598. *Not so.*

The only similarity between the cases is that both suits involve questions of trade-mark infringement and unfair competition. There the similarity ends.

The record in the *Stix* case discloses that plaintiff had registered its trade mark "Olde Tyme Comfort" for shoes under the Trade Mark Act of 1905, and had manufactured, advertised and sold countless millions of such shoes throughout the world over a period of 22 years (and we add parenthetically that over a ten-year period plaintiff sold six and one-half million pairs). Defendant, a local merchant, sold plaintiff's shoes at retail to customers who entered the store *seeking that brand of shoe.* In a deliberate and successful attempt to capitalize on the name plaintiff had firmly established in the industry, defendant began to sell a shoe labeled "All Time Comfort", which obviously sounded exactly like plaintiff's mark when spoken. When customers asked for plaintiff's shoe, he was sold defendant's substitute. At the trial plaintiff placed on the stand numerous witnesses and some 26 letters, both of the consuming public and shoe dealers, who testified that the mark of plaintiff is identified with and meant the plaintiff. The evidence from retail purchasers at defendant's store showed unmistakably the actual confusion which was deliberately planned and carried out. Standing alone, the two marks when spoken sounded identical and both the trial court and Court of Appeals emphasized this unfairness and made this the basis for their decisions. *The Stix case presented no element of unfair competition in advertising features, none being involved.*

It is obvious from the foregoing that the decision in the *Stix* case is consonant with the facts disclosed by the record in that case, which facts bear no resemblance to those in the case at bar.

In the *Stix* case, the marks were identical and deliberately intended to confuse; in the case at bar, the two marks, when either spoken or viewed, are poles apart. In the *Stix* case plaintiff's mark was registered on the Principal Register under the 1905 Act for almost two decades before the litigation; here the registration was on the Supplemental Register (having been rejected for the Principal Register), and then over one year and two months after suit was brought. In the *Stix* case actual confusion as to names and products was firmly established by the testimony of witnesses at the trial and by numerous letters; here not a scintilla of actual confusion was established and not one witness took the stand in Harad's behalf on that question. In the *Stix* case plaintiff was first on the market with both product and mark; in the case at bar, both the product, mark and advertising features were common in the industry, and as to the advertising features, *Sears was the originator and Harad the latecomer and copier.* In the *Stix* case the products were indistinguishable; in the case at bar, the truss pads, the main feature of any truss, were as different as day and night, and the new pads were patented. In the *Stix* case plaintiff's shoe was called for by plaintiff's mark; in the case at bar, Sears' catalog ads displayed only Sears' registered trademark and the truss was packaged in Sears' own carton which could not possibly be confused with Harad's. In the case at bar, the mail order customer called for and purchased a SEARS APPROVED truss and relied solely on Sears' reputation and recommendation; in the *Stix* case the public asked for and purchased plaintiff's shoe under plaintiff's name, relying on plaintiff's reputation and the recommendations of plaintiff's customers, not of defendant's.

It is particularly relevant to note here that Harad attached no significance whatsoever to his alleged mark

SPORTSMAN, stating to Sears' buyer that as far as Harad was concerned it was as unimportant as the words "Made in Japan" (R. 246).

We respectfully submit that there is no conflict whatever in these two decisions for the simple reason that there is no resemblance in their facts. On this ground alone the petition for writ of certiorari should be denied.

Furthermore, the decision in the case at bar is wholly in accord with all of the decisions in the Court of Appeals for the Eighth Circuit on similar facts, and we mention here only a few:

Seven-Up Co. v. *Cheer-Up Sales Co.,* (Seven-up case) 148 F. (2d) 909, (8 Cir., 1945) *cert. denied,* 326 U. S. 727.

Skinner Mfg. Co. v. *General Foods Sales Co.* (Skinner case) 52 F. Supp. 432 (D.C., Neb., 1943) *aff'd* 143 F. (2d) 895 (8 Cir., 1944).

J. C. Penney Co. v. *Lee Mercantile Co.,* (J. C. Penney case) 120 F. (2d) 949 (8 Cir., 1941).

International Heating Co. v. *Oliver* (Oliver case), 288 Fed. 708 (8 Cir., 1923).

Viavi Co. v. *Vimedia Co.* (Viavi case) 245 Fed. 289 (8 Cir., 1917).

In the *Seven-Up* case, plaintiff's registered mark was for "Seven-Up" and defendant's registration, issued 7 years later, was for "Cheer-Up". Both marks were used on similar soft drinks and their containers were in each case virtually identical 7 oz. green glass bottles with fused labels permanently affixed to the glass. The court denied relief for trade-mark infringement and unfair competition for the reasons (as in the case at bar) that the names were dissimilar and no instances of actual material confusion or mistake were introduced.

In the *Skinner* case, plaintiff had used the name "Raisin-Bran" on breakfast cereal for 17 years and spent almost a million dollars advertising it. Sales exceeded one and a half million dollars a year. Defendant, 17 years later, used the words "Raisin-Bran" on its product. Finding the mark in suit, "Raisin-Bran", for breakfast food merely descriptive and not a good trade-mark, the Court of Appeals there denied plaintiff relief for trade mark infringement and unfair competition, on the authority of *Kellogg Co.* v. *National Biscuit Co.,* 305 U. S. 111 (1938) and *Steem-Electric Corp.* v. *Herzfeld-Phillipson Co.,* 118 F. 2d 122 (7 Cir., 1940).

In the *J. C. Penney* case, the Court of Appeals denied an accounting and relief for unfair competition where (as in the case at bar) no instances of actual material customer deception were proved.

In the *Oliver* case, the charge of unfair competition was on the ground that defendant's advertisements were similar to those of plaintiff's in both appearance and wording, so that the public would be misled and deceived. There, as in the case at bar, the advertising of plaintiff carried plaintiff's name and that of defendant's carried defendant's name. In reversing the trial court's decree for the plaintiff, the Court of Appeals said at page 712:

> "But a customer obtained through an advertisement must of necessity read the advertisements to become acquainted with the article advertised and to know the name and address of the advertiser. * * * No sensible person acquainted with plaintiff's advertisements would believe that the defendant company was advertising and selling plaintiff's burner."

In the case at bar, as in the above *Oliver* case, Sears' catalog advertising carried only Sears' name and Sears' registered trade mark and its method of advertising was

similar, if not identical, to its method of advertising trusses for over 30 years. Harad was in no way identified with the truss and Sears' catalog purchasers could know only that Sears was advertising and selling a Sears' truss.

In the *Viavi* case, as in the case at bar, the unfair competition charge was plagiarism of "books, charts, circulars and printed forms." In denying relief to the plaintiff, the Court of Appeals said at page 292:

> "The material used is common in the domain of the proprietary medicine business, and, as no copyright is relied upon for special protection, the plaintiff has no monopoly of these forms of expression."

We refer the court also to the leading case of *Allen B. Wrisley Co.* v. *Iowa Soap Co.*, 122 Fed. 796 (8 Cir., 1903), for another decision by the Court of Appeals for the Eighth Circuit supporting Sears' position.

Likewise, the decision of the Court of Appeals in the case at bar is consonant with decisions in the other circuits, in the United States Supreme Court and in the Court of Appeals for the Seventh Circuit itself. We cite only a few here:

Kellogg Co. v. *National Biscuit Co.*, 305 U. S. 111 (1938).

Coats v. *Merrick Thread Co.*, 149 U. S. 562 (1893).

Kellogg Co. v. *Quaker Oats Co.*, 235 Fed. 657, (6 Cir., 1916).

Mathews Conveyer Co. v. *Palmer-Bee Co.*, 135 F. (2d) 73 (6 Cir., 1943).

American Fork & Hoe Co. v. *Stampit Corporation*, 125 F. (2d) 472 (6 Cir., 1942).

Distillers Brands, Inc. v. *American Distilling Co.*, 26 F. Supp. 988 (D.C., N.Y., 1938).

G. H. Mumm Champagne v. *Eastern Wine Corp.*, 142 F. (2d) 499 (2 Cir., 1944), *cert. denied*, 323 U. S. 715 (1944).

Sinko v. *Snow-Craggs Corp.*, 105 F. (2d) 450 (7 Cir., 1939).

S. R. Feil Co. v. *John E. Robbins Co.*, 220 Fed. 650 (7 Cir., 1915).

Zangerle & Peterson Co. v. *Venice Furn. Novelty Mfg. Co.*, 133 F. (2d) 266 (7 Cir., 1943).

We believe the foregoing conclusively shows that there is no conflict in the lower courts with respect to the matters involved in this case. Rather, issuance of the writ in this instance would only create a conflict. Pertinent here is the language of Mr. Justice Frankfurter in *Darr* v. *Burford*, 339 U. S. 200, 225 (1950):

> "It is, of course, one of our functions to resolve conflicts among the lower courts. But it is not our duty to stimulate such conflicts."

The case of *Schlitz Brewing Co.* v. *Houston Ice Co.*, 250 U. S. 28 (1919), cited by Harad (Petition, p. 13), supports Sears' position. It is noted that Harad, not only before the Court of Appeals for the Seventh Circuit but also here, lifts a literary *obiter dictum* from the Schlitz opinion (Petition, p. 13) in support of his position, unmindful that the decision of Supreme Court in the *Schlitz* case was against Harad's position.

In the *Schlitz* case, plaintiff was the first brewery to use amber or brown bottles for beer. Defendant later adopted a brown bottle for its beer and also had a brown label, the same as plaintiff's. Plaintiff's label was attached spirally and defendant's was set around the bottle. In affirming a judgment for defendant, the Supreme Court held such acts not to constitute unfair competition because

plaintiff had no exclusive right to the claimed features and because the method of attachment of the labels was different.

The breaking of the "fagot stick by stick" mentioned by the court had no application in the *Schlitz* case and likewise has none in the case at bar. The Court of Appeals broke no "fagot stick by stick", the evidence being undisputed that Sears used *in combination* long before Harad what Harad adopted from Sears and then sought to claim as his.

The action taken by the Court of Appeals in the present case, where all the pertinent evidence was documentary, followed the principle enunciated by the Supreme Court in *U. S.* v. *U. S. Gypsum Co.,* 333 U.S. 364 (1948), interpreting the principle set up by Rule 52(a), Rules of Civil Procedure, wherein it was stated at page 394:

> "It was intended, in all actions tried upon the facts without a jury, to make applicable the then prevailing equity practice. Since judicial review of findings of trial courts does not have the statutory or constitutional limitations on judicial review of findings by administrative agencies or by a jury, this Court may reverse findings of fact by a trial court where 'clearly erroneous.' The practice in equity prior to the present Rules of Civil Procedure was that the findings of the trial court when dependent upon oral testimony where the candor and credibility of the witnesses would best be judged, had great weight, with the appellate court. The findings were never conclusive, however. A finding is 'clearly erroneous' when although there is evidence to support it, the reviewing court on the entire evidence is left with a definite and firm conviction that a mistake has been committed."

The Court of Appeals said, in its opinion in the case at bar:

"The findings must of necessity rest exclusively on the documentary evidence mentioned, and the undisputed contents of the advertising matter of Harad and Sears. *Orvis* v. *Higgins,* 180 F. (2d) 537 (2 Cir., 1950)." (R. 551).

After examining and considering all of the documentary evidence, the Court of Appeals in the case at bar said:

"We feel on consideration of all the evidence in the record, that a mistake has been made and that the findings of the trial court in this regard are clearly erroneous. *U. S.* v. *U. S. Gypsum Co.,* 333 U.S. 364 (1948)." (R. 553).

2. The Established Rules Of Unfair Competition Apply To All Businesses, Small Or Large.

After sifting out all of the chaff of the petition, it appears that Harad's principal hope is for the sympathy of this Court, based on the aspiration that a new and *special* rule of law should be laid down for the "back-yard business man" (Petitioners' expression, Brief—page 12) to replace the law as it now exists and has always existed and which applies to all businesses, small and large.

Harad's request in this regard, if granted, would require erasure of the motto inscribed over the portals of this Honorable Court—"Equal Justice Under Law"—and would do violence to the familiar judicial oath. Furthermore, this aspiration has no bearing on the facts in this case where plaintiff has sought by judicial process what was denied to him by the Patent Office and which he had failed to acquire from the consuming public. Harad utterly failed in the trial of this case to establish any palming off—as he suggests on page 11 of the Petition, and by assuming evidence absent from the record argues that palming off takes the place of a patent, a technical trademark or the establishment of secondary meaning, so as

to warrant a finding of unfair competition. Harad's argument has quicksand for its foundation and the Court of Appeals properly recognized that argument of counsel will not supplant evidence necessary to establish a case. Pertinent here is the language of the court in *Reynolds & Reynolds Co.* v. *Norick*, 114 F. (2d) 278 (10 Cir., 1940), at page 281:

> "The record is barren of evidence of deceit in the past and there is no fact or circumstance which indicates the likelihood of deceit in the future. To grant plaintiff the relief which it seeks would be to proscribe legitimate competition, not to punish unfair competition. It would be nothing short of extending by judicial mandate the doctrine of unfair competition to the point of creating a copyright for the benefit of plaintiff. That we are not at liberty to do."

No Secondary Meaning Was Shown by Petitioner.

At the trial of this case Harad utterly failed to prove that the arrangement of advertising features heretofore discussed and which were used by Sears in the sale of the two trusses had acquired secondary meaning, conventional or otherwise, for his product. Why? Harad could not because Sears, long before, up to and continuously during Harad's time, had used and continued to use such an arrangement in its advertising of trusses other than Harad's.

Harad would have this Court ignore the fact that the two marks in dispute, the two cartons, the truss pads, and even the trusses themselves, are distinctly different from each other and could not possibly be confused by the purchasing public. Harad introduced no evidence of either palming off, actual confusion or mistake with respect to either the advertising features, the marks or the products.

Harad would have this Court forget the fact that any secondary meaning established as a result of Sears' cata-

log advertising could inure only to Sears and not to Harad. Harad was in no way identified or associated with Sears' catalog advertising, the mail order purchaser of any of the many trusses advertised by Sears purchasing on the basis of Sears' recommendation and reputation. Insofar as the customer was concerned, he was buying a Sears' truss and there could be no possible confusion in his mind as to source, origin or otherwise. Just such a situation, with particular reference to Sears, was the subject of judicial comment in *Meem-Haskins Coal Corp.* v. *Central Fuel Corp.*, 137 F. (2d) 242 (CCPA, 1943):

> "Applicant, under the facts stated, does not bring itself within the operation of that principle. An example of such a situation would be a firm like Sears, Roebuck and Co. or Montgomery Ward & Co., which purchases great quantities of articles and sells under its own trade names, the consuming purchasers rarely, if ever, knowing by whom or where the articles are produced. The purchasers buy solely upon the reputation and responsibility of the vendor and not of the producer."

Harad has complained to this Court (Petitioners' Brief, p. 12) that the facts in this case indicate that Sears failed to take reasonable steps to inform its customers that the Mack truss was not the Harad truss. This wanton disregard of the record, which Harad displayed as well in the Court of Appeals, makes it necessary that Sears bring the true facts to this Court's attention.

(1) The Mack truss, both the actual truss and the picture of it in Sears' 1950 catalog (A. 28, 54), bore Mack's trade-mark of a picture of a runner surmounted by the words ACTIVE MAN-CHICAGO. The picture of the Harad truss in Sears 1948 and 1949 catalog advertising (A. 42, 44) did not bear Harad's trade-mark but was identified solely as a SEARS APPROVED truss.

(2) The novel Mack pads were featured within black rectangular frames in Sears' 1950 catalog advertising of the Mack truss (A. 54), and could not be confused with the conventional crescent shaped Harad pads not so featured in Sears 1948 and 1949 catalog advertising of the Harad truss (A. 42, 44). It is to be remembered that the pads are the main part of the truss (R. 226).

(3) The Mack truss was advertised as a *NEW* SEARS ATHLETIC TRUSS so as to indicate that this was a *new* product. A witness testified at the trial that the word *NEW* in the fashion employed here was standard procedure to indicate to the customer that the product had never before appeared in a Sears' catalog (R. 248).

(4) The conventional blue and white SEARS APPROVED carton used for Harad's truss was modified to a large extent for the Mack truss. (Compare A. 30 with A. 31.)

(5) The three leaf circular (A. 60) enclosed in the SEARS APPROVED carton for the Mack truss (A. 31) was radically different in every respect from and bore no similarity to the three leaf circular (BE. 79) enclosed by Sears in the SEARS APPROVED carton for the Harad truss (A. 30). No purchaser could possibly fail to discriminate between the literature.

(6) Sears instructed its artists in preparing the Mack truss 1950 catalog ad (A. 53, R. 180) that the three views of nude men in black frames, which Sears had used in the Harad truss 1949 catalog ad (A. 49), were *not* to be used with the Mack truss. The reason given was that "These are the manufac-

turer's views and are not to be used with another product'' (A. 53), (and we add parenthetically that these views were not used).

Thus, it is seen that Sears gave careful consideration and took positive steps to make sure that Harad's product and package could not be confused by the customer with Sears' product and package; to make sure that its catalog advertising of the Mack truss contained no elements claimed by Harad. And this even though Sears was under no obligation, legally or morally, to take any steps to change its style and dress of packaging and advertising to accommodate Harad, because Sears never identified Harad in any manner with the truss in its catalog advertising but on the contrary the truss was sold, packaged and described as a SEARS APPROVED truss in a setting which Sears had originated and used for years with other trusses.

In passing, we note Harad's contention that the Court of Appeals failed to disturb a finding of the trial court (Petition, p. 10). *Not so.*

The Court of Appeals held (R. 554) (1) that inasmuch as Sears had preceded Harad in the use of all of the features claimed by Harad, as established by the undisputed documentary evidence, (2) that since Harad's mark was not infringed, and (3) that because no actual confusion was established by the evidence, that therefore Sears was not proven guilty of any unfair competition. Accordingly, the decision of the Court of Appeals necessarily disturbed the finding of the trial court complained of by Harad, for how can a latecomer acquire secondary meaning in the use of features as against one who preceded him in the use of such features?

CONCLUSION.

Respondent believes that the language of Wooley, District Judge, in *Radio Corporation of America* v. *Decca Records*, 51 F. Supp. 493, 497, correctly characterizes the plaintiff here:

> "I am almost persuaded that what the plaintiff dislikes is not what it is pleased to call 'unfair competition', but is any competition at all".

It is submitted that the present case, being a typical private controversy between two parties, involving no conflict of decisions and no constitutional question or other important question of law or public policy, does not warrant further review. As Chief Justice Taft once said, the Supreme Court does not grant certiorari "merely to give the defeated party in the Circuit Court of Appeals another hearing." (*Magnum Co.* v. *Coty*, 262 U.S. 159, 163.)

Respondent respectfully submits that a writ of certiorari should be denied.

Respectfully submitted,

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FRANK H. MARKS,
MAURICE B. WOLF,
120 South LaSalle Street,
Chicago 3, Illinois,
Attorneys for Respondent.

APPENDIX.

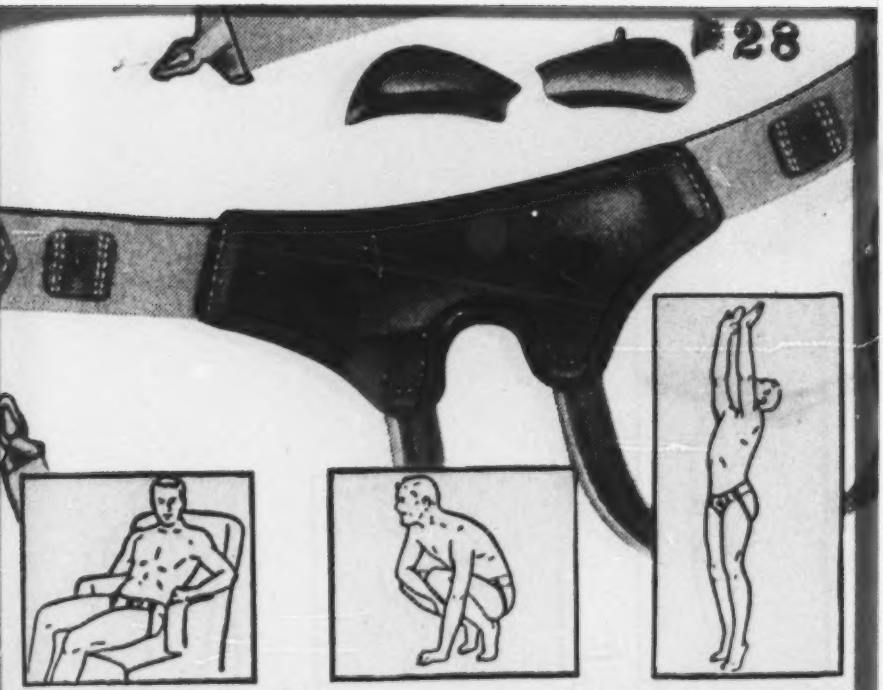
This appendix consists of copies of a few of the exhibits introduced into evidence in the trial court. For other exhibits referred to in this brief, the Court is respectfully referred to the books of exhibits entitled "Appendix to Appellant's Brief" which are on file in this court as part of the record in this case brought up from the Court of Appeals below.

INDEX OF EXHIBITS

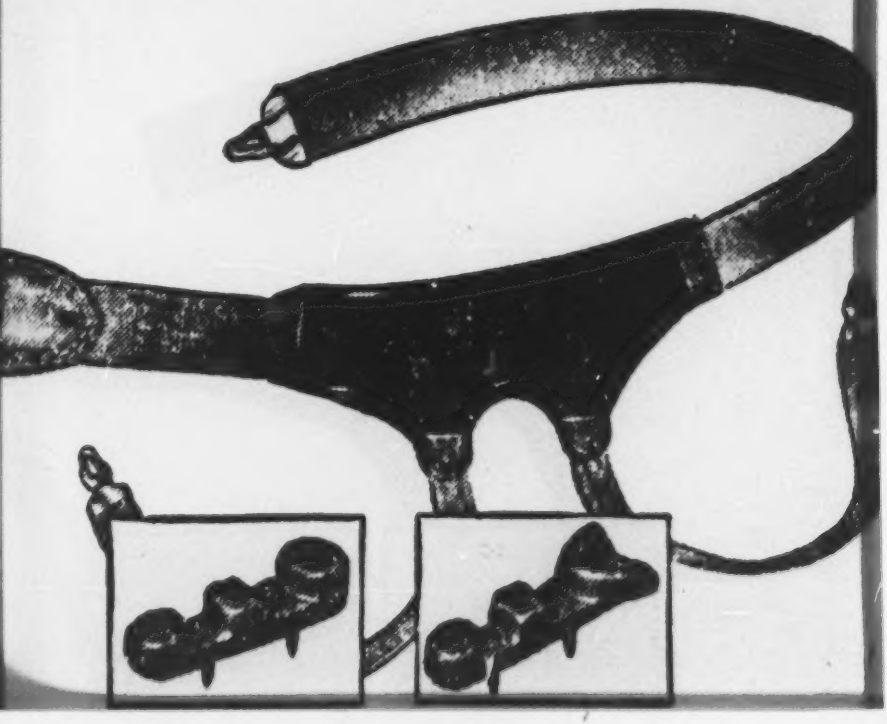
Exhibit No.	Description	Page
Plff. OO	Picture of Harad truss as illustrated on page 984 of Sears' 1949 Fall and Winter catalog	28
Deft. 76	Picture of Mack truss as illustrated on page 800 of Sears' 1950 Spring and Summer catalog	28
Deft. 96	Truss patent issued prior to Harad's entry into the truss business	29
Deft. 1a	SEARS APPROVED carton in which the Harad truss was sold by Sears at mail order	30
Deft. 7a	SEARS APPROVED carton in which the Mack truss was sold by Sears	31
Deft. 22	Carton used by Harad for the sale of his truss in retail stores	32
Deft. 79	Pages 480 and 481 of Sears' 1945-46 catalog showing trusses sold by Sears 2 years prior to Harad's entry into the truss business	34
Deft. 21	Page 790 and 791 of Sears' 1946-1947 catalog showing trusses sold by Sears over a year prior to Harad's entry into the truss business	37

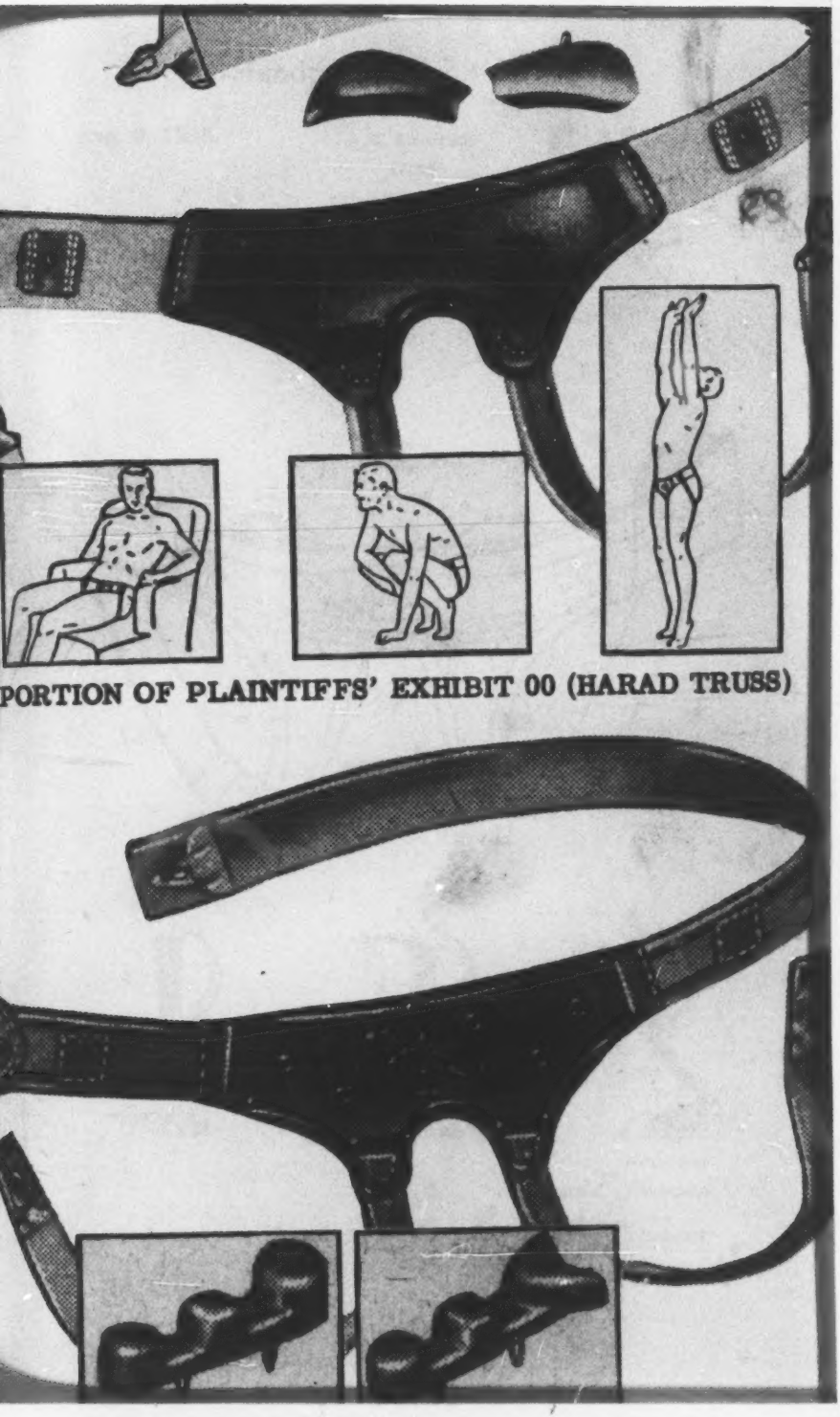
Exhibit No.	Description	Page
Deft. 20	Pages 682 and 683 of Sears' 1947-48 catalog showing trusses sold by Sears prior to the sale of any truss by Harad	40
Deft. 30	Pages 580 and 581 of Sears' 1948 Spring and Summer catalog showing SEARS APPROVED trusses, including for the first time the truss supplied by Harad	43
Deft. 34	Pages 1005A and B of Sears' 1948 Fall and Winter catalog showing SEARS APPROVED trusses, including the truss supplied by Harad	46
Plff. OO	Pages 984 and 985 of Sears' 1949 catalog showing SEARS APPROVED trusses, including the truss supplied by Harad	49
Deft. 76	Page 800 of Sears' 1950 Spring and Summer catalog showing SEARS APPROVED trusses, including the truss supplied by Mack. Also, instruction sheet for Sears' artists in preparation of said page 800	52
Plff. TT	Page 958 of Sears' 1950 Fall and Winter catalog showing SEARS APPROVED trusses, including the truss supplied by Mack	54
Deft. 13	Label of Chesterman-Leland Co. registered trade-mark for trusses, in use prior to Harad's time	55
Deft. 97	WINNER and CHAMPION athletic figure trade-mark registrations for trusses, etc., in use prior to Harad's time	56
Plff. JJ-1	Circular enclosed by Harad in SPORTSMAN red and black carton	58
Deft. 7b	Circular enclosed with truss supplied by Mack in Sears' blue and white SEARS APPROVED carton	60

Exhibit No. Description Page



PORTION OF PLAINTIFFS' EXHIBIT 00 (HARAD TRUSS)





PORTION OF PLAINTIFFS' EXHIBIT 00 (HARAD TRUSS)

Defendant's Exhibit 96

29

Aug. 9, 1938. J. E. HANSEN 2,126,550

TRUSS

Filed Aug. 13, 1936 3 Sheets-Sheet 3

FIG. 8.

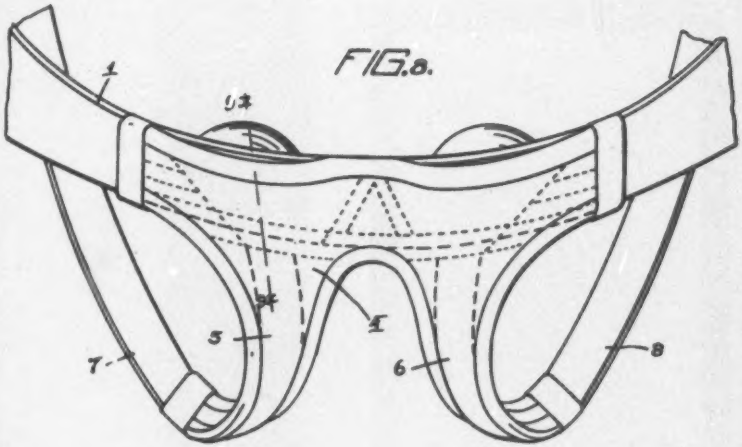




FIG. 9.



FIG. 10.



FIG. 11.

INVENTOR

JULIUS E. HANSEN

BY

ATTORNEY

Defendant's Exhibit 1A

30

Approved

ATHLETIC TRUSS

NO. SIZE

ATHLETIC TRUSS

COMFORTABLE - SELF-FITTING - CAN'T SLIP

Defendant's Exhibit 7A

31

SEARS Approved

ATHLETIC TRUSS

COMFORTABLE • SELF-FITTING • CAN'T SLIP

DESIGNED ESPECIALLY FOR ACTIVE MEN

- Comfortable, Elastic Type Waist Band. Self Fitting
- Solid Rubber Pads—Adjustable. Sanitary, Washable

- Complete With Two Pads for Double or Single Hernias
- Pads Double Annealed To Prevent Slipping

FOR ALL REDUCIBLE INGUINAL OR SCROTAL HERNIAS. *FITTING INSTRUCTIONS ENCLOSED*

SEARS APPROVED TRUSSES ARE SOLD ONLY BY SEARS ROEBUCK AND CO.

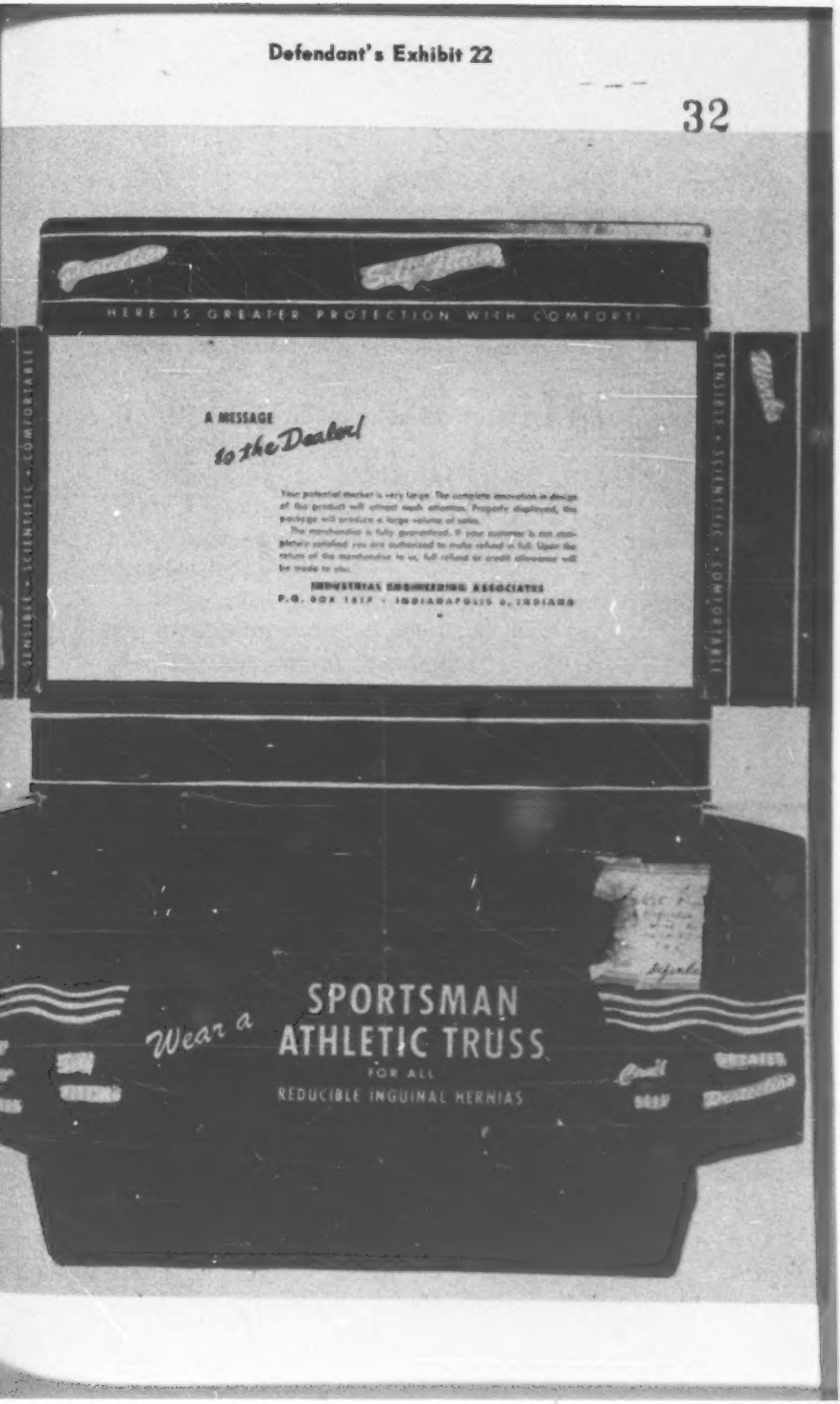
SEARS Approved

ATHLETIC TRUSS

INGUINAL

Defendant's Exhibit 22

32



The next two pages are pages 480 and 481 of Sears' 1945-46 catalog, describing and illustrating the trusses sold by Sears two years prior to Harad's entry into the truss field. Attention of the Court is directed to the following:

1. Drawings of the men at work (carrying motor) and at play (bowling).

2. The slogan: "I'M ACTIVE AGAIN" and "NOW I CAN WORK".

3. Descriptive statements in column formation preceded by dots.

4. The illustrative cuts of the trusses in oblique loop arrangement and of the truss pads.

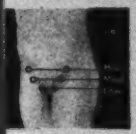
5. The anatomical drawings.

Defendant's Exhibit 79

For proper support and comfort, select a suitable truss

It's easy to get a perfect fitting Truss at Sears

Which style Truss shall I buy?



Ruptures are generally classified into 3 types—high, medium and low. Choose below the style truss which best fits your needs.

Hand style Steel Spring Truss . . . Widely used to restrict high, low or medium-type ruptures.

French style Steel Spring Truss . . . Best used to restrict the medium or high type of rupture.

Scrotal Style Steel Spring Truss . . . A heavy-duty truss designed for low ruptures.

Elastic style Trusses . . . For milder cases of rupture where only mild support is needed.

"Now I can work"







French Style Spring Trusses

GOOD . . . Standard Model

A For high or intermediate ruptures. Leather covered steel spring (3" sweat-resistant, designed to fit contour of the body. Leather covered pad. Adjustable. Even sizes: 32 to 44. See "How to Measure" on opposite page. *Please state (1) exact measurement (2) right or left side.*
$ 3.89 Single
8 D 1362—Shipping weight, 15 oz. . . . . Single style $3.89

BETTER . . . "Grip-Tite" Model

B Special fixture makes pad adjustable to any position. Padded steel spring covered with sweat-resistant cowhide leather. Rubber pad corrugated to prevent slipping. For high or medium-type ruptures. Even sizes: 32 to 44. See "How to Measure" on opposite page. *Please state (1) exact measurement and (2) right or left side.*
$ 4.49 Single
8 D 1385—Shipping wt., 1 lb. . . . . Single style $4.49
8 D 1386—Shipping wt., 1 lb. 6 oz. . . . . Double style 6.98

BEST . . . Adjustable Pressure model

G • Adjustable to regulate pressure
• Anti-slip corrugated rubber pad
• Padded back pad gives extra comfort
• Rust-resistant steel spring covered with high grade sweat-resistant cowhide leather
$8 Sing

This truss, our best model, retains rupture firmly but comfortably in small of back. Rust-resistant steel spring is covered with high grade sweat-resistant cowhide leather. To restrict high or medium-type ruptures. Even sizes: 32 to 42. See "How to Measure" on opposite page. *Please state (1) exact measurement (2) which for right or left side.* Single style only.
8 D 1388—Shipping weight, 1 pound 1 ounce. . . .



New York Style Truss

. . . ightweight, yet . . . ves firm support. . . . ll-elastic cotton . . . ebbing. Leather-. . . overed pad fits right or left . . . de. Understrap holds truss . . . mly in place. Washable. . . . ven sizes: 30 to 42. See "How . . . Measure" on opposite page. . . . *ease state exact measurement.* . . . pg. wt., 8 oz.
$1.39 Single
. . . 1310—Single style . . . $1.39

Boston Style Truss

Two front straps adjust leather-covered pad. All-elastic webbing. Washable. Even sizes: 32 to 42. *Be sure to state exact measurement.* See "How to Measure" on opposite page. Shpg. wts., single style, 11 oz.; double, 13 oz.
$2.59 Single
8 D 1308—Single (fits right or left side) $2.59
8 D 1309—Double style . . . 3.39

"Air-Cushion" Truss

Extra comfortable "air-cushion" pad has soft rubber corrugated surface —won't slip. All elastic webbing. Washable. Understrap holds pad in place. Even sizes: 32 to 42. See "How to Measure" on opposite page. *Please state exact measurement.* Shipping weights, 8 oz. and 12 oz.
$3.48 Single
8 D 1303—Single style, fits right or left side $3.48
8 D 1304—Double style . . . 4.48

Scrotal Style Truss

Adjustable full-size leather-covered pad; 2 tension straps control position and pressure of pad. All elastic webbing. Understrap holds pad firmly in place. Washable. Even sizes: 32 to 42. See "How to Measure" on opposite page. *Be sure to state (1) measurement and (2) whether for right or left side.* Shipping weight, 12 ounces.
$4.89 Single
8 D 1312—Single style . . . $4.89

Womb Suppo

H Lightweight leather, cotton lined; elastic insert. Adjustable side straps, rubber understraps. Hardrubber. . . . nary. Even sizes: 32 to 44. *Be sure to state (also) size of* . . . *diameter (not waist).* Shpg. wt. . . .
8 D 1445—Shpg. wt., 10 oz.

Rubber cup—not illustrated
I 8 D 1474—Pessary
Shpg. wt., 2 oz. Each
J 8 D 1323—Understrap
Shpg. wt., 2 oz. Pair

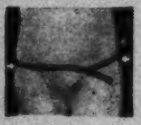
. . . SEARS, ROEBUCK AND CO., ltd.

Sears offers top quality, perfect fit, low prices

Popular style Trusses for both men and women



How to Measure for Trusses



Stand relaxed. Have someone draw tape measure straight around body in direct line with point of rupture as shown at left. Take measurement over your bare skin; do not measure over clothes. Take easy measurement. Send this exact measurement. (Do not send waist measurement).

Note: If you need a larger size truss than those listed, order your selection at price shown, and we will get it for you at no extra charge. Allow up to 60 days for delivery of special sizes of trusses.

"I'm active again"



Hood style Spring Trusses

Standard Model

For high, medium and low ruptures. Leather-covered pads and springs. Hood front principle; back fastening. Single style has dummy pad on unaffected side. Even sizes: 32 to 42. See "How to Measure" above right. *State (1) exact measurement; (2) right or left side.*

\$5.97 Single

S D 1340—Shpg. wt., 1 lb. 2 oz. ..... Single style $5.97
S D 1360—Shpg. wt., 1 lb. 4 oz. ..... Double style 6.96

De luxe Model "Anti-Slip Pad"

Front and back pads covered with corrugated non-slip rubber. Adjustable leather-covered steel spring. Single style has dummy pad on unaffected side. Even sizes: 32 to 42. See "How to Measure" above at right. *State (1) exact measurement, and (2) right or left side.*

\$7.79 Single

S D 1391—Shpg. wt., 1 lb. 2 oz. ..... Single style $7.79
S D 1400—Shpg. wt., 1 lb. 4 oz. ..... Double style 8.98

Scrotal style Spring Trusses

Standard . . . Single Style

B Soft leather-covered pad. Adjustable steel spring covered with sweat-resistant cowhide. Washable cloth understrap. Designed for low ruptures; gives comfortable pressure and is easily adjustable. Even sizes: 32 to 42. See "How to Measure" above at right. *State (1) exact measurement, and (2) whether for right or left side.*

\$5.89 Single

S D 1341—Shpg. wt., 1 lb. 3 oz. ..... Single style $5.89

De luxe Style . . . "Anti-slip pad"

B Adjustable corrugated rubber-covered pad grips body firmly. Well-padded spring is covered with genuine cowhide leather. Rubber understraps. For low ruptures. Even sizes: 32 to 42. See "How to Measure" above at right. *State (1) exact measurement, (2) right or left side.*

\$6.69 Single

S D 1394—Shpg. wt., 1 lb. ..... Single style $6.69
S D 1395—Shpg. wt., 1 lb. 12 oz. ..... Double style 8.69



London Type Supporter

...support for wear after ...ia operation, as it gives ...support over entire area ...tout restricting abdominal ...muscles. Two large soft pads joined ...ether by knitted elastic. Sturdily ...structed body band is adjustable. ...plied with understraps, to be worn as ...ded. Washable. Even sizes 28 to 44 in. *...ure exact hip measurement (not waist).* ...e "How to Measure", Page 110-114.

\$2.69 Each

S D 1285—Shpg. wt., 12 oz. ...Each $2.69

Post Operative Belt

For wear after operations, for fallen stomach, or for a general abdominal support for those suffering from obesity. Strong buckle back adjustment. Correctly placed straps form a positive lift support to the lower abdomen. Knitted elastic sections on each side. Washable. Even sizes 30 to 48 in. *Measure around fullest part of abdomen* (not waist). See "How to Measure", Page 110-114.

\$4.69 Each

S D 1306—Shpg. wt., 13 oz. ...Each $4.69

Sears Approved

Our de luxe model. Self-adjusting. Seamless rayon pouch shaped to fit properly. Low opening helps prevent constriction. Adjustable understraps and waistband. Washable. *State medium or large size pouch.* Shpg. wt., 3 oz.

\$1.15 Each

S D 1400 ..... Each $1.15

Army-Navy Style

For firm, comfortable support. Adjustable understraps. Cotton sack is bound with braid for longer wear. Washable. *State medium or large size pouch.* Shpg. wt., 3 oz.

47c Knitted

S D 1473—Knitted Sack Each 47c
S D 1474—Mesh Sack 47c

Single Strap Style

Fits without understraps. Pouch has soft cotton edges. Adjustable waistband. Firm, comfortable support. Washable. *State medium or large size pouch.* Shpg. wt., 2 oz.

37c Cotton

S D 1479—Cotton ... 37c
S D 1479—Rayon and Cotton 57c

Terms and bolts on both these pages may be ordered on Easy Payment Terms. See Inside Back Cover for full details

The next two pages are pages 790-791 of Sears' 1946-1947 catalog, describing and illustrating trusses sold by Sears over a year prior to Harad's entry into the truss field. Attention of the court is directed to the following:

1. Sears' registered trade mark, SEARS APPROVED.

2. Pen and ink sketches of men at work (carrying crate) and play (golfer).

3. The illustrative cuts of the trusses in oblique loop arrangement and the truss pads.

4. The slogan "RUPTURED! YOU CAN STILL LEAD AN ACTIVE LIFE."

5. The slogan: "WEAR A SEARS APPROVED TRUSS, PERFECT FITTING FOR YOUR COMFORT—NOW YOU CAN WORK OR PLAY WITH GREATER FREEDOM."

6. The anatomical drawings.

37

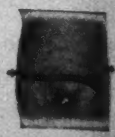
Defendant's Exhibit 21

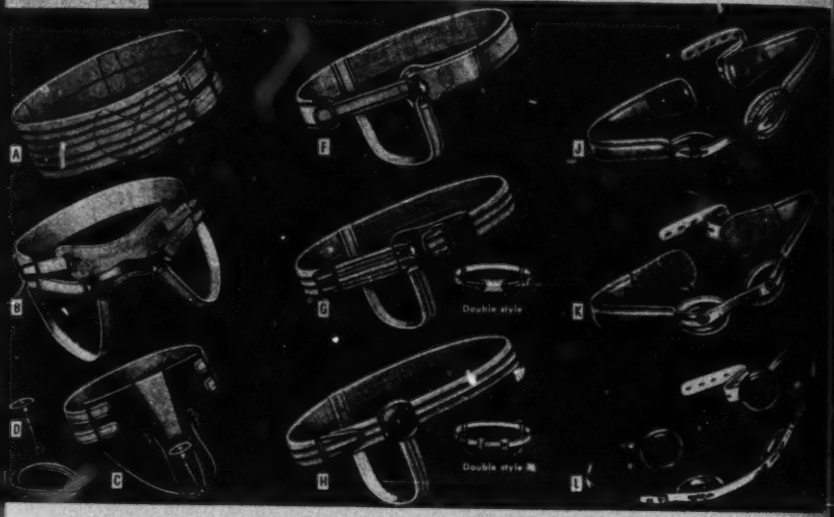
Ruptured? You can still lead an active life

SEARS Approved — THE RIGHT WAY TO SAY DRUGS AND SUNDRIES

HOW TO MEASURE FOR TRUSSES. You'll find it easy to get a perfect-fitting truss from Sears if you follow these instructions carefully, to insure accurate measurements. Stand relaxed. Have someone draw tape measure straight around body in direct line with point of rupture, as shown at right. Take measurement over your bare skin—do not measure over your clothes. Take snug measurement. Send us this exact measurement and we will send your correct size. (Please do not send waist measurement.)

NOTE: If you need a larger size truss than those listed, order the style you want at price shown, and we will get it for you at no extra charge. Allow up to 60 days for delivery of special sizes of trusses.





Umbilical Truss for adults

...his adjustable, long wearing truss ...ves secure support for navel ruptures. ...sponge rubber pad helps restrict rup- ... Pressure is comfortable, constant. ...tic band permits free movement of body. Wash- ...easy to keep clean. Even sizes 34 to 44. Take ...measurement around body at navel. *Please state measurement.* Shipping weight 1 pound 4 ounces.

...314.....Each $4.39

$4.29 Each

...stic spring lever adjustable Truss

...rm support for low rupture. Lined ...kle leather front. Lever spring ...s front for adjustment to body ...ment. Wide elastic body band ...adjustable end straps. Full-size leather covered ...n pad; plastic dummy pad on unaffected side. ...sizes 30 to 42. See "How to Measure" at top of ... *State exact measurement and right or left side.*

...813—Shpg. wt. 1 lb. 4 oz. Single style.....$4.89

$4.89 Single

...rine Support for "fallen womb"

...ghtweight leather, cotton lined; ...astic insert. Adjustable side straps, ...r understrap. Hard rubber pes- ...gives firm support. Even sizes ...44. Measure around fullest part of abdomen ...waist). *Please state exact measurement.*

...40—Shpg. wt. 13 oz.....Complete $3.39

$3.39 Complete

...ssery only.

...8 G 1474
...wt. 2 oz. Ea. 69c

Understraps.

8 G 2323
Shpg. wt. 2 oz. . Pr. 14c

...SEARS, ROEBUCK AND CO. ALL

Elastic style Trusses

Elastic style trusses give you light pressure and comfortable support in less severe cases of high or intermediate type rupture. Comfortable for wearing in bed to retain hernia while sleeping. All-elastic webbing is washable, easy to keep sanitary. Metal parts are heavily nickel-plated, highly polished. See "How to Measure" at top of page.

GOOD . . . New York style. Leather covered pad is reversible—may be worn on either right or left side. Strong elastic webbing. Even sizes 30 to 42. *State exact measurement.* See "How to Measure" at top of page. Shipping weight 8 ounces.
8 G 1310—Single style.....$1.69

$1.69 Single

BETTER . . . Boston style. Two front straps permit you to adjust the sweat-resisting leather-covered pad. Heavy elastic webbing is strong and durable. Even sizes 32 to 42. *State exact measurement.* See "How to Measure" above. Shipping weights 11 ounces, 15 ounces.
8 G 1308—Single. Fits right or left side.....$2.99
8 G 1309—Double style.....3.99

$2.59 Single

BEST . . . "Air cushion" style. Soft corrugated rubber on surface of "Air cushion" pad to fit firmly and give you extra comfort. Webbing is heavy, close-woven elastic with smooth surface on both sides. Even sizes 32 to 42. *State exact measurement.* See "How to Measure" above. Shpg. wts. 8 oz., 12 oz.
8 G 1305—Single. Fits right or left side.....$3.48
8 G 1304—Double style.....4.48

$3.48 Single

Hood style Trusses

Get Hood style for comfort and firm support in bil... Intermediate or low type ruptures. Tough ... springs. Rigid front; opening in back. Pads adj... to any angle, lock firmly. Exposed metal parts nick... plated, polished. Single style has dummy pad on ... affected side. See "How to Measure" above. *... exact measurement and whether for right or left side.*

GOOD . . . Standard model. Pads and steel springs covered with good quality leather. Even sizes 32 to 42. *State exact measurement and right or left side.* See "How to Measure" above.
8 G 1348—Single style. Shpg. wt. 1 lb. 2 oz.....$5.
8 G 1349—Double style. Shpg. wt. 1 lb. 4 oz.....

$5.[illegible] Each

BETTER . . . "Anti-slip" model. Pads are covered with corrugated rubber to hold firmly on the body. Steel springs covered with fine quality sweat-resistant leather. Even sizes 32 to 42. *State exact measurement and whether for right or left side.* See "How to Measure" above.
8 G 1391—Single style. Shpg. wt. 1 lb. 2 oz.....$7.
8 G 1392—Double style. Shpg. wt. . 1 lb. 4 oz.....

$7.[illegible] Each

BEST . . . Plastic style. You'll find this truss especially easy to keep clean and sanitary. Pads and springs covered with smooth, black, light weight plastic. Won't absorb odors. Fastens with sturdy leather strap. Comes in even sizes 30 to 4... *State exact measurement and right or left side.*
8 G 1315—Single style. Shpg. wt. 1 lb. 1 oz.....$7.
8 G 1316—Double style. Shpg. wt. 1 lb. 3 oz.....

$7.[illegible] Each

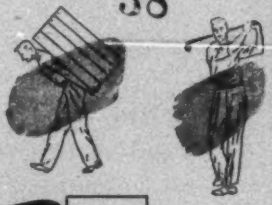
Sears FINE quality trusses are available on Easy Payment Terms. For details see inside back cover

Defendant's Exhibit 21

38

Wear a Sears Approved Truss, perfect fitting for your comfort

Now you can work or play with greater freedom . . . at Sears it's easy to get your correct size







Scrotal style Trusses

Scrotal style trusses to support low ruptures firmly and comfortably. Equipped with understraps to hold pad in position effectively. Exposed metal parts are heavily nickel plated and highly polished. In measuring for your truss, see "How to Measure" on opposite page. Always shop at Sears for high value at low cost.

GOOD . . . Elastic scrotal style. For mild cases of rupture. Waistband made of washable all-elastic webbing. Cloth understrap. Two tension straps at front control both position and pressure. Full-size leather-covered scrotal pad. Even sizes 32 to 42. *State exact measurement and right or left side.*
8 G 1312—Single style. Shpg. wt. 12 oz. ..... $4.89 Single

BETTER . . . Scrotal style spring Truss. Designed to hold hernia in place properly and comfortably. Pad leather-covered. Adjustable steel spring covered with sweat-resistant leather. Even sizes 32 to 42. *State exact measurement and right or left side.* Washable cloth understrap. Shipping weight 1 pound 3 ounces.
8 G 1340—Single style ..... $5.89 Single

BEST . . . Scrotal style spring Truss with "anti-slip pad." For firm support and extra comfort in this high quality truss. Gives readily with body movement. Adjustable pad covered with sponge rubber to grip body better. Well-padded spring covered with strong sweat-resistant leather. Soft rubber understraps. Even sizes 32 to 42. *State exact measurement and whether right or left side.*
8 G 1394—Single style. Shipping weight 1 lb. ..... $6.69 Single
8 G 1395—Double style. Shipping weight 1 lb. 12 oz. 8.69

French style adjustable Trusses . . . our most popular style

Rely on French style trusses to restrict high or intermediate ruptures. Pad adjusts to many positions to suit your individual needs. Gives firm pressure without discomfort. Holds in place without the aid of understraps. Pad is readily adjustable. High quality steel springs covered with leather. All exposed metal parts are heavily nickel plated and highly polished. In measuring for your truss, see "How to Measure" on opposite page. *Please state exact measurement and whether for right or left side.*

GOOD . . . standard model

Excellent value at a low price! Pad covered with leather. Comes in even sizes 32 to 44. Shipping weight 15 ounces.
8 G 1362—Single style ..... $3.89 Single

BETTER . . . "Grip-Tite" model

Special fixture makes corrugated rubber pad easily adjustable. Leather-covered, padded steel springs. Even sizes 32 to 46. Shipping weights 1 lb., 1 lb. 4 oz.
8 G 1385—Single style ..... $4.49 Single
8 G 1386—Double style 5.98

BEST . . . adjustable pressure

For maximum comfort and perfect fit use Sears best French style truss. So easy to adjust that one simple motion regulates amount of pressure on the pad from very firm to mild—even while you're wearing truss (see small view above). Corrugated rubber pad holds fast, won't slip. Gives firm pressure and support. Back pads are padded for extra comfort. Long-wearing, padded, steel springs covered with high-quality, strong, sweat-resistant leather. Get this truss for real satisfaction. Even sizes 32 to 42. *State exact measurement.* See "How to Measure" on opposite page. Shpg. wt. 1 lb. 1 oz.
8 G 1389 ..... $9.49 Single

Elastic Webbing for trusses

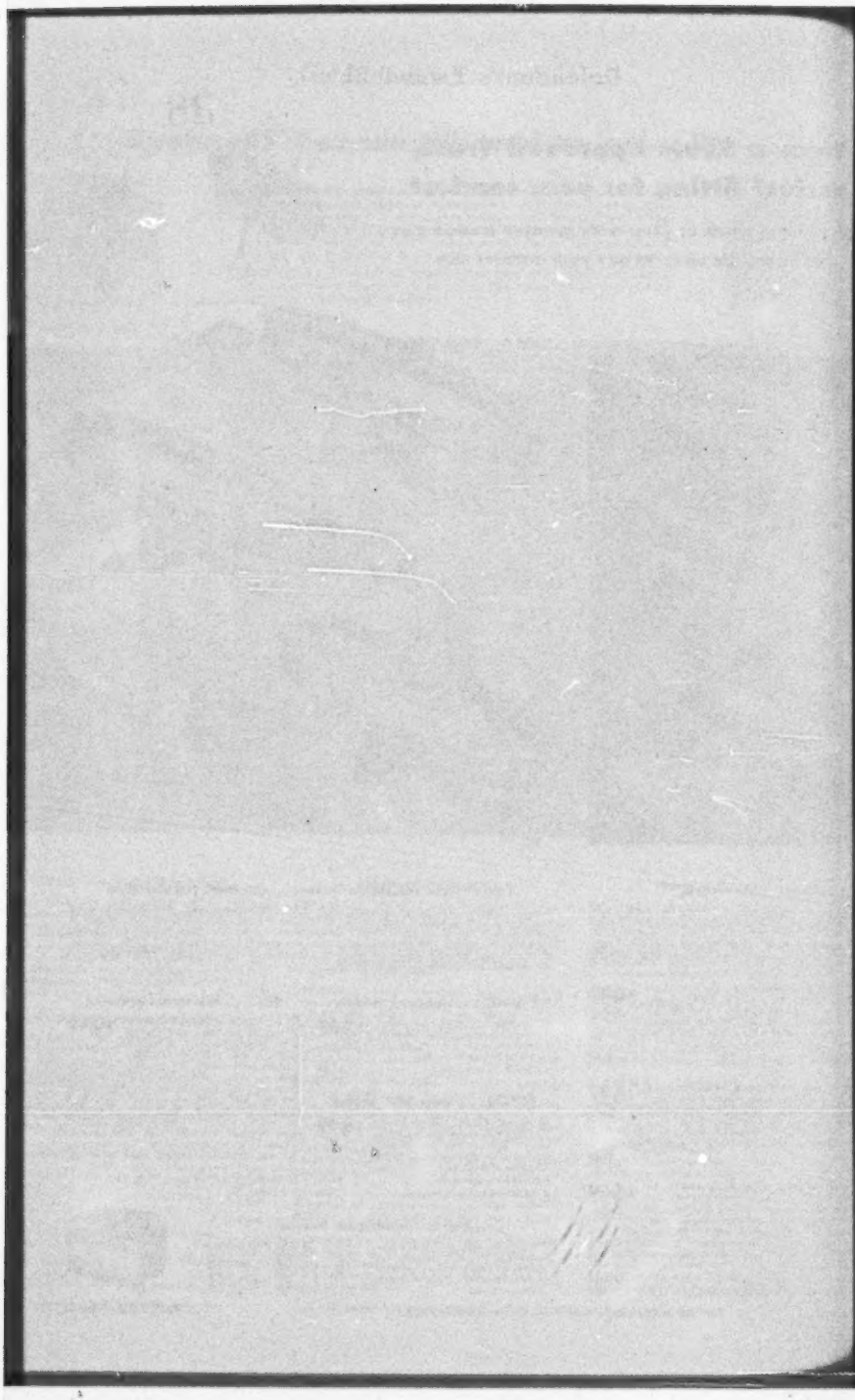
For trusses and artificial limbs. Good quality cotton woven over strands of heavy rubber for extra service. *Measure webbing once owned, order same width.*

Width Inch	Catalog Number	Shpg. Wt.	Price Per Yard
⅞	8 G 1300	2 oz.	33c
1½	8 G 1301	3 oz.	53c
2	8 G 1303	4 oz.	79c



For other invalid supplies write for our Sickroom Catalog 589G

ALSO PAGE 791 . . TRUSSES



The next two pages are pages 682-683 of Sears' 1947-48 catalog, describing and illustrating trusses sold by Sears prior to the sale of any truss by Harad. Attention of the court is directed to the following:

1. The illustrative cuts of trusses in oblique loop arrangement, and of the truss pads.

2. The slogan: "RUPTURED! YOU CAN STILL LEAD AN ACTIVE LIFE."—"WEAR A SEARS APPROVED TRUSS, PERFECT FITTING FOR YOUR COMFORT—NOW YOU CAN WORK OR PLAY WITH GREATER COMFORT."

3. Sears' registered trade mark, SEARS APPROVED.

4. Pen and ink sketches showing men in various physical activities (shoveler, shower bathing, etc.).

5. The anatomical drawings.

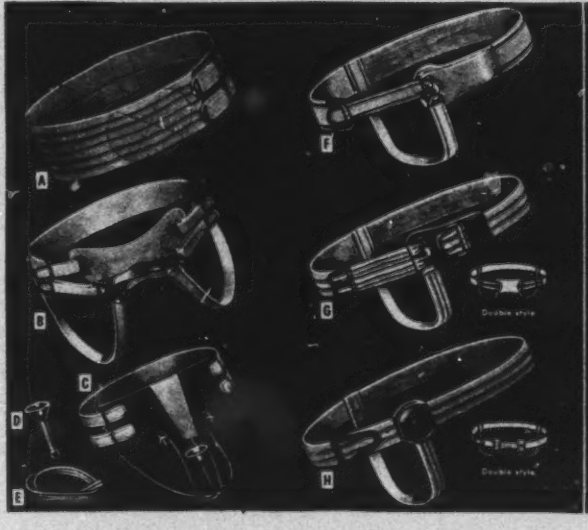
Ruptured? You can still lead an active life



HOW TO MEASURE FOR TRUSSES: You'll find it easy to get a perfect-fitting truss from Sears if you follow these instructions carefully to insure accurate measurements. Stand relaxed. Have someone draw tape measure straight around body in direct line with point of rupture, as shown at right. Take measurement over your bare skin—do not measure over your clothes. Take snug measurement. Send us this exact measurement and we will send your correct size. (Please do not send waist measurement.)

NOTE: If you need a larger size truss than those listed, order the style you want at price shown, and we will get it for you at no extra charge. Allow up to 60 days for delivery of special sizes of trusses.







Umbilical Truss for adults

A This adjustable, long wearing truss gives secure support for navel ruptures. Soft sponge rubber pad helps restrict rupture. Pressure is comfortable, constant. Elastic band permits free movement of body. Washable, easy to keep clean. Even sizes 24 to 44. Take snug measurement around body at navel. *Please state exact measurement.* — $4.29 Each

8 K 1514—Shpg. wt. 1 lb. 4 oz. ..... Each $4.29

Elastic spring lever adjustable Truss

B Firm support for low rupture. Lined wide leather front. Lever spring across front for adjustment to body movement. Wide elastic body band with adjustable end straps. Full-size leather covered hernia pad; plastic dummy pad on unaffected side. Even sizes 30 to 42. See "How to Measure" at top of page. *State exact measurement and right or left side.* — $4.89 Single

8 K 1313—Shpg. wt. 1 lb. 4 oz. Single style $4.89

Uterine Support for "fallen womb"

C Lightweight leather, cotton lined; elastic insert. Adjustable side straps, rubber understraps. Hard rubber pessary gives firm support. Even sizes 32 to 44. Measure around fullest part of abdomen (not waist). *Please state exact measurement.* — $3.39 Complete

8 K 1440—Shpg. wt. 13 oz. ..... Complete $3.39

B **Pessary only.** 8 K 1474 — Shpg. wt. 2 oz. 69c

G **Understrap.** 8 K 1461 — Shpg. wt. 2 oz. 19c

Elastic style Trusses

Elastic style trusses give you light pressure and comfortable support in less severe cases of high or intermediate type rupture. Comfortable for wearing in bed to retain hernia while sleeping. All-elastic webbing is washable, easy to keep sanitary. Metal parts are heavily nickel-plated, highly polished. See "How to Measure" at top of page.

F **GOOD . . . New York style.** Leather covered pad is reversible—may be worn on either right or left side. Strong elastic webbing. Even sizes 30 to 42. *State exact measurement.* See "How to Measure" at top of page. Shipping weight 8 ounces. — $1.69 Single

8 K 1310—Single style $1.69

G **BETTER . . . Boston style.** Two front straps permit you to adjust the sweat-resisting leather-covered pad. Heavy elastic webbing is strong and durable. Even sizes 32 to 42. *Please state exact measurement.* See "How to Measure" above. Shipping weights 11 ounces, 15 ounces. — $2.59 Single

8 K 1308—Single. Fits right or left side $2.59
8 K 1309—Double style 3.59

H **BEST . . . "Air cushion" style.** Soft corrugated rubber on surface of "Air cushion" pad to fit firmly and give you extra comfort. Webbing in heavy, close-woven elastic with smooth surface on both sides. Even sizes 32 to 42. *State exact measurement.* See "How to Measure" above. Shpg. wts. 8 oz., 12 oz — $3.49 Single

8 K 1303—Single. Fits right or left side $3.49
8 K 1304—Double style 4.49

French style adjustable Truss

Rely on French style trusses to restrict hig[h] mediate ruptures. Pad adjustable to suit [in]dual needs; Gives firm pressure without [di]Holds in place without the aid of understa[p] quality steel springs covered with leather[,] pound metal parts heavily nickel plated [a]polished. See "How to Measure" above.

J **GOOD . . . Standard model.** Excellent value at a low price! Pad covered with leather. Comes in even sizes 32 to 44. *Please state exact measurement and whether for right or left side.* Shipping weight 15 o[z]

8 K 1343—Single style .....

K **BETTER . . . "Skip-Tite" model.** Special fixture makes anti-slip rubber pad easily adjustable. Leather-covered, pa[d]ded steel springs. Even sizes 32 to 44. *State exact measurement and whether for ri[g]ht side.* Shipping weights 1 pound, 1 pound 4[.]

8 K 1305—Single style .....
8 K 1306—Double style .....

L **BEST . . . adjustable pressure model.** For maximum comfort and perfect fit. One simple motion regulates amount of pressure on pad from very firm to mild—even while you're wearing truss (see [a]above). Anti-slip rubber pad holds fast, [e]back pad. Steel springs covered with le[a]sweat-resistant leather. Even sizes 32 to [4]*exact measurement and whether for right or l[e]*

8 K 1300—Shipping weight 1 lb. 1 oz. .....

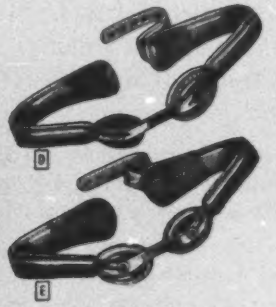
Above fine quality trusses are available on Easy Payment Terms. For details see inside back cover

Wear a Sears Approved Truss, perfect fitting for your comfort

Now you can work or play with greater freedom . . .

It's easy to get your correct size at Sears







Scrotal style Trusses

...crotal style trusses to support low ruptures firmly and ...rtably. Equipped with understraps to hold pad in posi...tively. Exposed metal parts are heavily nickel plated ...style polished. In measuring for your truss, see "How to ...re" on ...osite page. Always shop at Sears for high ...at lo...

...Elastic scrotal style. For mild cases ...rupture. Waistband made of washable all-... webbing. Cloth understrap. Two tension ...at front control both position and pressure ...-size leather-covered scrotal pad. Even sizes 32 to 42. *...act measurement and right or left side.*

...12—Single style. Shpg. wt. 12 oz. $4.89

$4.89 Single

...Scrotal style spring Truss. Designed ...hold hernia in place properly and comfortably. ...leather-covered pad. Adjustable steel spring ...ed with sweat-resistant leather. Washable ...derstrap. Even sizes 32 to 42. *State exact measurement ...ght or left side.* Shipping weight 1 pound 3 ounces.

...41—Single style. $5.89

$5.89 Single

...Scrotal style spring Truss with "Anti-... pad." For firm support and extra comfort ...high quality truss. Given readily with body ...st. Adjustable pad covered with corrugated ...t to grip body better. Well-padded spring covered with ...sweat-resistant leather. Soft rubber understraps. Even ...32 to 42. *State exact measurements and whether for right ...side.*

...4—Single style. Shipping weight 1 lb. $6.69

...5—Double style. Shipping weight 1 lb. 12 oz. 8.69

$6.69 Single

Hood style Trusses . . . our most popular style

Get our Hood style truss for comfort and firm support in high, intermediate or low type ruptures. Well constructed with resilient steel springs. Front of truss is rigid with opening in back. Pads adjust to any angle to suit your individual needs . . . lock firmly. All exposed metal parts are nickel plated and highly polished to resist rust. Single style has a dummy pad on unaffected side. *State exact measurement and whether for right or left side.* Be sure to read instructions on "How to Measure" on opposite page.

GOOD . . Standard model

D Pads and steel springs covered with good quality leather. Adjustable pads. Even sizes 32 to 42. *State exact measurement and whether for right or left side.*

8 K 1346—Single style. Shpg. wt. 1 lb. 2 oz. ~~Price in Spring Catalog was $5.98~~ ..... ~~$5.69~~

8 K 1349—Double style. Shpg. wt. 1 lb. 4 oz. ~~Price in Spring Catalog was $6.98~~ ..... ~~$6.69~~

$5.69 Single

BETTER . . "Anti-slip" model

E Pads are covered with corrugated non-slip rubber to hold firmly on body. Steel springs covered with fine quality sweat-resistant leather. Sizes 32 to 42. *State exact measurement right or left side.*

8 K 1391—Single style. Shpg. wt. 1 lb. 2 oz. $7.79

8 K 1392—Double style. Shpg. wt. 1 lb. 4 oz. 8.98

$7.79 Single

BEST . . . Plastic style

F You'll find this truss especially easy to keep clean and sanitary . . . just wipe with a wet cloth when you want to clean it!

Pads and springs are covered with smooth light weight plastic. Won't absorb odors. May be worn while bathing or swimming. Fastens with sturdy leather strap. An excellent truss for year-round use! For value always shop at Sears. Sizes 30 to 42. *State exact measurement and whether for right or left side.*

8 K 1315—Single style.
Shipping weight 1 lb. 1 oz. $7.98

8 K 1316—Double style.
Shipping weight 1 lb. 3 oz. 8.98

$7.98 Single

Elastic Webbing for trusses

For trusses and artificial limbs. Good quality cotton woven over strands of heavy rubber for extra service. *Measure webbing now used, order same width.*

Width Inch	Catalog Number	Shpg. Wt.	Price Yard
½	8 K 1300	2 oz.	39c
1½	8 K 1301	3 oz.	59c
2	8 K 1302	4 oz.	69c





Comfortable, Adjustable Suspensories

Single Strap Style. Quality at a low price! Fits without understraps. Knit cotton pouch has elastic edges. Adjustable waistband of cotton webbing. Washable. *State whether medium or large size pouch is wanted.*

8K1476—Shpg. wt. 3 oz. 37c

Army-Navy Style. For firm, comfortable support. Pouch made of long-wearing cotton mesh bound in braid. Adjustable elastic understrap and waistband. Washable. *State whether medium or large size pouch is wanted.*

8K1476—Shpg. wt. 3 oz. 67c

Sears Approved. Our de luxe model. Self-adjusting. Seamless rayon pouch shaped to fit properly... Low opening. Adjustable elastic understraps and waistband. Washable. *State whether medium or large size pouch is wanted.*

8 K 1480—Shpg. wt. 6 oz. $1.15

The next two pages are pages 580-581 of Sears' 1948 Spring and Summer catalog describing and illustrating trusses sold by Sears, including for the first time the truss supplied by Harad. Attention of the court is directed to the following:

1. The pen and ink sketch of the man shoveling is the sketch used by Sears in its previous 1947-48 catalog as shown in Defendant's Exhibit 20.

2. The pen and ink sketch of the golfer is the sketch used by Sears in its previous 1946-47 catalog as shown in Defendant's Exhibit 21.

3. A comparison of the cut illustrating the truss supplied by Harad with the other cuts illustrating the other SEARS APPROVED trusses with reference to similarity of presentation in oblique loop arrangement.

4. All trusses, including Harad's, are identified only as SEARS APPROVED trusses.

5. The slogans, ACTIVE LIFE and ACTIVE MAN are used in connection with all SEARS APPROVED trusses, and were used in previous Sears catalogs heretofore shown in this Appendix.

6. The registered trade mark, SEARS APPROVED, specifically identifies the truss supplied by Harad.

Defendant's Exhibit 30

Ruptured? You can still lead an active life





Suspensories

A Single Strap Style. Quality at a low price! Fits without understraps. Knit cotton pouch has elastic edge. Adjustable waistband of cotton webbing. Washable. *State whether medium or large size pouch is wanted.*
8 L 1478—Shpg. wt. 2 oz. **47c**

B Army-Navy Style. For firm, comfortable support. Pouch made of long-wearing cotton mesh bound in braid. Adjustable elastic understraps and waistband. Washable. *State whether medium or large size pouch is wanted.*
8 L 1476—Shpg. wt. 3 oz. **79c**

C Sears Approved. Our deluxe model. Self-adjusting. Seamless rayon pouch shaped to fit properly. Low opening. Adjustable elastic understraps and waistband. Washable. *State whether medium or large size pouch is wanted.*
8 L 1480—Shpg. wt. 5 oz. **$1.15**

If you do not at present wear a truss, we suggest you see your family doctor on the style of truss to buy.

French style Trusses

For restricting high or intermediate ruptures. Pad adjustable to suit your individual needs. Hold in place without aid of understraps. High quality steel springs covered with leather.

D GOOD . . . Standard Model. Excellent value! Pad covered with leather. Even sizes 32 to 44. *Please state exact measurement and whether for right or left side.* Shpg. wt. 15 oz. **$3.89** Each
8 L 1342—Single style $3.89

E BETTER . . . "Grip-Tite" model. Special fixture makes anti-slip rubber pad easily adjustable. Leather-covered, padded steel springs. Even sizes 32 to 44. *State exact measurement and whether for right or left side.* **$4.49** Single
8 L 1385—Single. Shpg. wt. 1 lb. . . . $4.49
8 L 1386—Double. Shpg. wt. 1 lb. 6 oz. 5.98

F BEST . . . adjustable pressure model. For maximum comfort and perfect fit. One simple motion regulates amount of pressure on pad from very firm to mild—even while you're wearing truss (see small view above). Anti-slip rubber pad holds fast, won't slip. Leather back pad padded for extra comfort. Steel springs covered with sweat-resistant leather. Even sizes 32 to 42. *State exact measurement and whether for right or left side.* **$9.69** Each
8 L 1388—Shpg. wt. 1 lb. 1 oz. $9.69

Elastic style Trusses

Give light pressure and comfortable support in less severe cases of high or intermediate type rupture. Comfortable for wearing in bed. All-elastic webbing is washable, easy to keep sanitary.

G GOOD . . . New York style. Leather covered pad is reversible—may be worn on either right or left side. Strong elastic webbing. Even sizes 30 to 42. *State exact measurement.* Shpg. wt. 8 oz. **$1.69** Each
8 L 1310—Single style $1.69

H BETTER . . . Boston style. Two front straps permit you to adjust the sweat-resisting leather-covered pad. Heavy elastic webbing. Even sizes 32 to 42. *Please state exact measurement.* Shipping weights 11 ounces; and 15 ounces. **$2.59** Single
8 L 1308—Single. Fits right or left side. $2.59
8 L 1309—Double style 3.59

J BEST . . . "Air cushion" style. Soft corrugated rubber on surface of "Air cushion" pad to fit firmly and give you extra comfort. Webbing is heavy, close-woven elastic with smooth surface on both sides. Comes in even sizes 32 to 42. *Please state exact measurement.* See "How to Measure" on opposite page. Shipping weights 8 ounces; and 12 ounces. **$3.49** Single
8 L 1303—Single. Fits right or left side. $3.49
8 L 1304—Double style 4.49

Umbilical Tru

K Given secure support for navel ruptures. Soft sponge rubber pad. Elastic band permits free movement of body. Washable. Even Take away measurement navel. *Please state exact* 8 L 1314—Shpg. wt. 1 lb. 6 oz.

Spring Lever Tr

L Firm support for low ru ture. Wide elastic bod band with adjustable cu straps. Wide leather lini front. Lever spring across justment to body movement leather covered hernia pad; p my pad on unaffected side. 30 to 42. *State exact measu whether for right or left side.* Sh 8 L 1313—Shpg. wt. 1 lb. 4 oz.

Uterine Suppo

M Lightweight leather, ot ton lined; elastic insert Adjustable side straps, rub ber understraps. Hard rub ber pessary. Even sizes 32 to ure around fullest part of abd waist). *State exact measure* 8 L 1460—Shpg. wt. 13 oz. Cou

Understraps — Pessa

N 8 L 1461-Shipping wt. 3 oz. . . . Pair **21c** — **O** 8 L 3 oz.

High Quality Elastic Bandages

R Tetra Rubberloss Elastic Bandage. 75c 2-inch width
Elasticity derived from special weave of cotton threads. Retains even tension. For surface varicose veins, dislocations and sprains. Length when stretched about 15 feet. Cream color.

Width	Cat. No.	Shpg. wt.	Each
2 in.	8 L 1444	2 oz.	75c
3 in.	8 L 1445	3 oz.	90c
4 in.	8 L 1449	4 oz.	$1.20

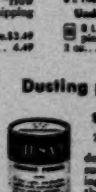
S Tenser Elastic Bandage. 90c 2-inch width
Made with rubber. Combines tension and flexibility with light weight. Designed to treat varicose veins, dislocations, swellings. About 16 feet when stretched. Washable. Beige color. Postpaid. (Shpg. wt. 4 oz.)

Width	Cat. No.	Each
2 inches	8 L 1402	90c
3 inches	8 L 1404	$1.20
4 inches	8 L 1407	1.50



580 . . SEARS-ROEBUCK 414

Dusting powder for Tr



$1.18 No matter h ly your truss fi 2 ounces feel better if yo high-quality dus der. Made especially surgical appliances. Soo ing cushion between it the body . . . non-chafe to comfort for every m a truss. Shpg. wt. 7 oz.
8 L 1399—Two (3-oz.) can

Buy on Sears Easy Paym
See inside back cover f

Wear a perfect-fitting Sears Approved Truss







Scrotal Type Trusses

...tal style trusses to support low ruptures ...d comfortably. Equipped with understraps ... pad in position effectively. Exposed metal ...r handy nickel plated and highly polished. ...ring, see "How to Measure" below.

... Elastic Scrotal style. For ... cases of rupture. Elastic web- ...ehind. Cloth understrap. Two ... straps at front control position ...sure of leather-covered scrotal pad. Even ... to 42. *State exact measurement and whether ... or left side.* Shipping weight 12 ounces. ...Single style. ..... $4.89 Each

... Scrotal style spring ... Designed to hold hernia in ...roperly and comfortably. Soft ...overed pad. Adjustable steel ...overed with sweat-resistant leather. Wash- ...h understrap. Even sizes 32 to 42. *State ...rement and whether for right or left side.* ...Single style. Shpg. wt. 1 lb. 3 oz. ... $5.98 $5.98 Each

... Scrotal style spring Truss "Anti-slip pad." For firm support plus extra comfort get this high ...tron. Given readily with body ...t. Adjustable pad covered with corrugated ...r to grip body better. Well-padded spring ...with strong sweat-resistant leather. Soft ...understraps. Even sizes 32 to 42. *State ...rement and whether for right or left side.* ...Single style. ...weight 1 pound. ..... $6.89 ...Double style. ...weight 1 pound 12 ounces. ..... 8.69 $6.69 Single

Hood style Trusses

Get our Hood style truss for comfort and firm support in high, intermediate, or low type ruptures. Well constructed with resilient steel springs. Rigid front with back opening. Pads adjust to any angle. Single style has dummy pad on unaffected side.

B GOOD ... Standard model. Pads and steel springs covered with good quality leather. Adjustable pads. Even sizes 32 to 42. *State exact measurement and whether for right or left side.*
8 L 1348—Single style. Shpg. wt. 1 lb. 2 oz. ... $5.69
8 L 1349—Double style. Shpg. wt. 1 lb. 4 oz. ... 6.69 $5.69 Single

C BETTER ... "Anti-slip" model. Pads are covered with corrugated non-slip rubber to hold firmly on body. Steel springs covered with fine quality sweat-resistant leather. Sizes 32 to 42. *Please state exact measurement and whether for right or left side.*
8 L 1391—Single style. Shpg. wt. 1 lb. 2 oz. ... $7.79
8 L 1392—Double style. Shpg. wt. 1 lb. 4 oz. ... 8.98 $7.79 Single

D BEST ... Plastic style. You'll find this truss especially easy to keep clean and sanitary ... just wipe with a wet cloth when you want to clean it!
Pads and springs are covered with smooth, lightweight plastic. Won't absorb odors. May be worn while bathing or swimming. Fastens with sturdy leather strap. An excellent truss for year-round use! Comes in sizes 30 to 42. *Please state exact measurement and whether for right or left side.*
8 L 1315—Single style.
Shipping weight 1 pound 1 ounce $7.98
8 L 1316—Double style.
Shipping weight 1 pound 3 ounces ..... 8.98 $7.98 Single

For the active man! New scientifically designed Athletic Truss and Support

This new Sears Approved athletic truss and support is designed to hold your hernia when you're doing heavy work or engaged in athletics. Excellent after operations to support tissues and aid in preventing recurrences of hernia. Made to support structures instead of pressing deeply at one point. Has strong elastic belt and understraps with pliable rubber front. Genuine leather reinforcement at buckle. Used as truss, rubber pad fits in any one of 3 positions. Used as a support, rubber front offers you comfort as well as protection to abdominal region.

$8.49 Single

For the man who works hard and likes athletics, this Sears Approved athletic truss is ideal support. Excellent when you drive a car, stretch, squat, or bend over. Conforms to natural anatomy of body. Even sizes 30 to 42. *State exact measurement and whether for right or left side.*
8 L 1325—Single style. Shpg. wt. 1 lb. 10 oz. ... $8.49
8 L 1326—Double style. Shpg. wt. 1 lb. 14 oz. ... 9.49



Elastic Webbing for trusses

Use this elastic webbing for trusses and artificial limbs. Made of good quality cotton woven over strands of heavy rubber for extra service. *Measure the webbing now and, order same width.* Buy Sears trusses for high quality at a low price.

Width Inches	Catalog Number	Shipping Weight	Price Yard
½	8 L 1300	2 oz.	25c
1	8 L 1301	3 oz.	39c
1½	8 L 1302	4 oz.	54c
2	8 L 1303	4 oz.	69c



HOW TO MEASURE FOR TRUSSES. You'll find it easy to get a perfect-fitting truss from Sears if you follow these instructions carefully to insure accurate measurements. Stand relaxed. Have someone draw tape measure straight around body in direct line with point of rupture, as shown at left. Take measurement over your bare skin—do not measure over your clothes. Take snug measurement. Send us this exact measurement and we will send your correct size. (Please do not send waist measurement.)

NOTE: If you need a larger size truss than those listed, order the style you want at price shown, and we will get it for you at no extra charge. Allow up to 60 days for delivery of special sizes of trusses.

Sears Trusses may be purchased on Easy Payment Terms. For complete details, see inside back cover

The next 2 pages are pages 1005A and 1005B of Sears' 1948 Fall and Winter catalog describing and illustrating trusses sold by Sears, including the truss supplied by Harad. Attention of the court is directed to the following:

1. The pen and ink sketch of the man shoveling is the same sketch used by Sears in advertising trusses other than the one supplied by Harad (e.g., Deft's. Ex. 20.

2. A comparison of the cut illustrating the truss supplied by Harad with the cuts illustrating other SEARS APPROVED trusses with reference to similarity of presentation in oblique loop arrangement.

3. All trusses, including the truss supplied by Harad, are identified only by the Sears registered trade mark, SEARS APPROVED.

4. The slogans, ACTIVE LIFE and ACTIVE MAN, are used in connection with all SEARS APPROVED trusses, and were used in previous Sears catalogs heretofore shown in this Appendix.

5. The registered trade mark, SEARS APPROVED, specifically identifies the truss supplied by Harad.

Defendant's Exhibit 34





RUPTURED? YOU CAN STILL LEAD AN ACTIVE LIFE

Suspensories

Single Strap style. Fits without understrap. Knit cotton pouch. Adjustable waistband of cotton webbing. Washable. *State choice of medium or large size pouch.* Shpg. wts. each 2 oz.

D 1478—Each..... 49c
Two for..... 95c

Army-Navy style. For firm support. Pouch made of long-wearing cotton mesh bound in braid. Adjustable elastic understraps and waistband. Washable. *State choice of medium or large size pouch.* Shpg. wts. each 3 oz.

D 1476—Each..... 79c
Two for..... $1.49

Sears Approved. Seamless rayon pouch shaped to fit properly. Low opening. Adjustable elastic understraps and waistband. Washable. *State choice of medium or large size pouch.* Shpg. wts. each 3 oz.

D 1480—Each..... $1.15
Two for..... $2.19

If you do not at present wear a truss, we suggest you see your family doctor on the style of truss to buy.

French Style Trusses

For restricting high or intermediate ruptures. Pad adjustable to suit your individual needs. Hold in place without aid of understraps. High quality steel springs covered with leather.

GOOD . . . Standard model . . . Excellent value! Pad covered with leather. Even sizes 32 to 46. *Please state exact measurement and whether for right or left side.* Shpg. wt. 15 oz. — $3.89 Each

D 1342—Single style..... $3.89

BETTER . . . "Grip-Tite" model . . . Special fixture makes anti-slip rubber pad easily adjustable. Leather-covered, padded steel springs. Even sizes 32 to 46. *State exact measurement and whether for right or left side.* — $4.49 Each

D 1385—Single. Shpg. wt. 1 lb. . . . $4.49
D 1386—Double. Shpg. wt. 1 lb. 4 oz. 5.98

BEST . . . Adjustable Pressure model . . . For maximum comfort and perfect fit. One simple motion regulates amount of pressure on pad from very firm to mild—even while you're wearing truss (see small view above). Anti-slip rubber pad holds fast, won't slip. Leather back pad padded for extra comfort. Steel springs covered with sweat-resistant leather. Even sizes 32 to 42. *State exact measurement and whether for right or left side.* — $9.69 Each

D 1388—Shpg. wt. 1 lb. 1 oz. $9.69

Elastic Style Trusses

Give light pressure and comfortable support in less severe cases of high or intermediate type rupture. Comfortable for wearing in bed. All-elastic webbing is washable, easy to keep sanitary.

GOOD . . . New York style. Leather covered pad is reversible—may be worn on either right or left side. Strong elastic webbing. Even sizes 30 to 42. *State exact measurement.* Shpg. wt. 8 oz. — $1.69 Each

D 1310—Single style..... $1.69

BETTER . . . Boston style. Two front straps permit you to adjust the sweat-resisting leather-covered pad. Heavy elastic webbing. Even sizes 32 to 42. *Please state exact measurement.* Shpg. weights 11 ounces; and 15 ounces. — $2.59 Single

D 1308—Single. Fits right or left side. $2.39
D 1309—Double style..... 3.59

BEST . . . "Air cushion" style . . . Soft corrugated rubber on surface of "Air cushion" pad to fit firmly and give you extra comfort. Webbing is heavy, close-woven elastic with smooth surface on both sides. Comes in even sizes 32 to 42. *Please state exact measurement.* See "How to Measure" on opposite page. Shipping weights 8 ounces; and 12 ounces. — $3.49 Single

D 1302—Single. Fits right or left side. $3.49
D 1304—Double style..... 4.49

Umbilical Trus

Gives secure support to navel ruptures. Soft sponge rubber pad. Elastic band permits free movement of body. Washable. Even sizes 30 to 42. Take snug measurement around navel. *Please state exact measurement.* Shpg. wt. 1 lb. 4 oz.

D 1314—Shpg. wt. 1 lb. 4 oz. . . .

Spring Lever Trus

Firm support for low rupture. Wide elastic body band with adjustable end straps. Wide leather lined front. Lever spring across front for adjustment to body movement. Leather covered hernia pad; plain navy pad on unaffected side. Even sizes 30 to 42. *State exact measurement whether for right or left side.* Shpg. wt. 1 lb. 4 oz.

D 1313—Shpg. wt. 1 lb. 4 oz. . . .

Uterine Support

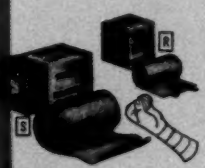
Lightweight leather, cotton lined; elastic insert. Adjustable side straps, rubber understraps. Hard rubber pessary. Even sizes 32 to 44 inches around fullest part of abdomen (not waist). *State exact measurement.* Shipping weight 13 ounces.

D 1440..... Complete

Understraps — Pessary

D 1441-Shipping wt. 2 oz.... Pair 21c — D 1442-Shipping wt. 3 oz.... Each 29c

ELASTIC BANDAGES of high quality



79c — Tetra Rubberloss Elastic Bandage. 3-inch width. Special weave of cotton threads gives elasticity. For surface varicose veins, dislocations and sprains. Retains even tension. Cream color. Length when stretched about 15 feet.

Catalog No.	Width	Shpg. wt. each	Each	Two for
D1444	2 in.	2 oz.	79c	$1.49
D1445	3 in.	3 oz.	99c	1.89
D1447	4 in.	4 oz.	$1.29	2.49

$1.00 — Tensor Elastic Bandage . . . Made with rubber. Combines tension and flexibility with light weight. Designed to treat varicose veins, dislocations, swellings. About 16 feet when stretched. Washable. Beige color. Postpaid. (Shpg. wt. 4 oz.)

Width	Catalog No.	Each
2 inches	D 1402	$1.00
3 inches	D 1403	1.30
4 inches	D 1407	1.45

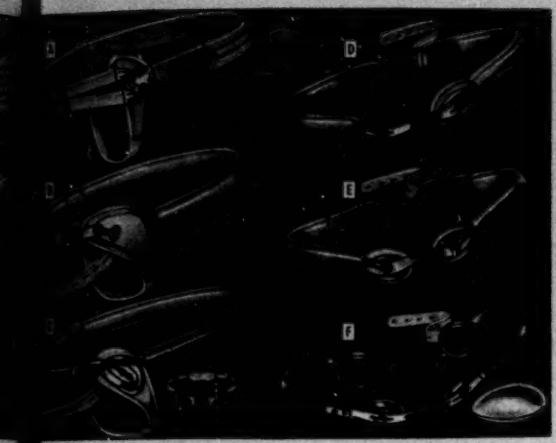
DUSTING POWDER for



$1.09 No matter how your truss fits, you feel better if you use high-quality Powder especially to use with ... ascus. Acts as a ... between truss and body ... sorbent. A real aid to ... wts. 4 oz.; 7 oz.

D 1399—2-oz. can..... $1.09
Two (2-oz.) cans.....

Buy on Sears Easy Payment Plan. See inside back cover for ...





WEAR A PERFECT-FITTING SEARS APPROVED TRUSS

Scrotal type Trusses

...total style trusses to support low ruptures ...ed comfortably. Equipped with understraps ...pad in position effectively. Exposed metal ...e heavily nickel plated and highly polished. ...uring, see "How to Measure" below.

...00 ... Elastic Scrotal style. For ... cases of rupture. Elastic web-...thband. Cloth understrap. Two ...straps at front control position ...sure of leather-covered scrotal pad. Even ...to 42. *State exact measurement and whether ...or left side.* Shipping weight 12 ounces. ...—Single style. ..... $4.89 Each

...TER ... Scrotal style spring ... Designed to hold hernia in ...roperly and comfortably. Soft ...covered pad. Adjustable steel ...covered with sweat-resistant leather. Wash-...th understrap. Even sizes 32 to 42. *State ...surement and whether for right or left side.* ...—Single style. Shpg. wt. 1 lb. 3 oz. .... $5.98 $5.98 Each

... Scrotal style spring Truss ... "anti-slip pad." For firm sup-...l extra comfort get this high ...truss. Given readily with body ...ent. Adjustable pad covered with corrugat-...er to grip body better. Well-padded spring ... with strong sweat-resistant leather. Soft ...understraps. Even sizes 32 to 42. *State ex-...surement and whether for right or left side.* ...—Single style. ...t weight 1 pound. ..... $6.69 ...—Double style. ...t weight 1 pound 12 ounces. ..... 8.69 $6.69 Single

Hood style Trusses

Get our Hood style truss for comfort and firm support in high, intermediate, or low type ruptures. Well constructed with resilient steel springs. Rigid front with back opening. Pads adjust to any angle. Single style has dummy pad on unaffected side.

GOOD ... Standard model. Pads and steel springs covered with good quality leather. Adjustable pads. Even sizes 32 to 42. *State exact measurement and whether for right or left side.* 8 D 1349—Single style. Shpg. wt. 1 lb. 2 oz. ... $3.89 8 D 1349—Double style. Shpg. wt. 1 lb. 4 oz. ... 6.49 $5.69 Single

BETTER ... "Anti-slip" model. Pads are covered with corrugated non-slip rubber to hold firmly on body. Steel springs covered with fine quality sweat-resistant leather. Sizes 32 to 42. *Please state exact measurement and whether for right or left side.* 8 D 1391—Single style. Shpg. wt. 1 lb. 2 oz. ... $7.79 8 D 1392—Double style. Shpg. wt. 1 lb. 4 oz. ... 8.98 $7.79 Single

BEST ... Plastic style. You'll find this truss especially easy to keep clean and sanitary ... just wipe with a wet cloth when you want to clean it! Pads and springs are covered with smooth, light-weight plastic. Won't absorb odors. May be worn while bathing or swimming. Fastens with sturdy leather strap. An excellent truss for year-round use! Comes in sizes 30 to 42. *Please state exact measurement and whether for right or left side.* 8 D 1315—Single style. Shipping weight 1 pound 1 ounce. ... $7.98 8 D 1316—Double style. Shipping weight 1 pound 3 ounces. ... 8.98 $7.98 Single



HOW TO MEASURE FOR TRUSSES. You'll find it easy to get a perfect-fitting truss from Sears if you follow these instructions carefully to insure accurate measurements. Stand relaxed. Have someone draw tape measure straight around body in direct line with point of rupture, as shown at left. Take measurement over your bare skin—do not measure over your clothes. Take snug measurement. Send us this exact measurement and we will send your correct size. (Please do not send waist measurement.)

NOTE: If you need a larger size truss than those listed, order the style you want at price shown, and we will get it for you at no extra charge. Allow up to 60 days for delivery of special sizes of trusses. Sorry no C.O.D. orders.

For the active man!

New scientifically designed

ATHLETIC TRUSS AND SUPPORT

This new Sears Approved athletic truss and support is designed to hold reducible hernia when you're doing heavy work or engaged in athletics. See your doctor! Excellent after operations to support tissues and aid in preventing recurrences of hernia. $8.89 Single

Made to support structures instead of pressing deeply at one point. Has strong elastic belt and understraps with pliable rubber front. Genuine leather reinforcement at buckle. Used as truss, rubber pad fits in any one of 3 positions. Used as a support, rubber front offers you comfort as well as protection to abdominal region.

For the man who works hard and likes athletics, this Sears Approved athletic truss is ideal support. Excellent when you drive a car, stretch, squat, or bend over. Conforms to natural anatomy of body. Even sizes 30 to 42. *State exact measurement and whether for right or left side.*

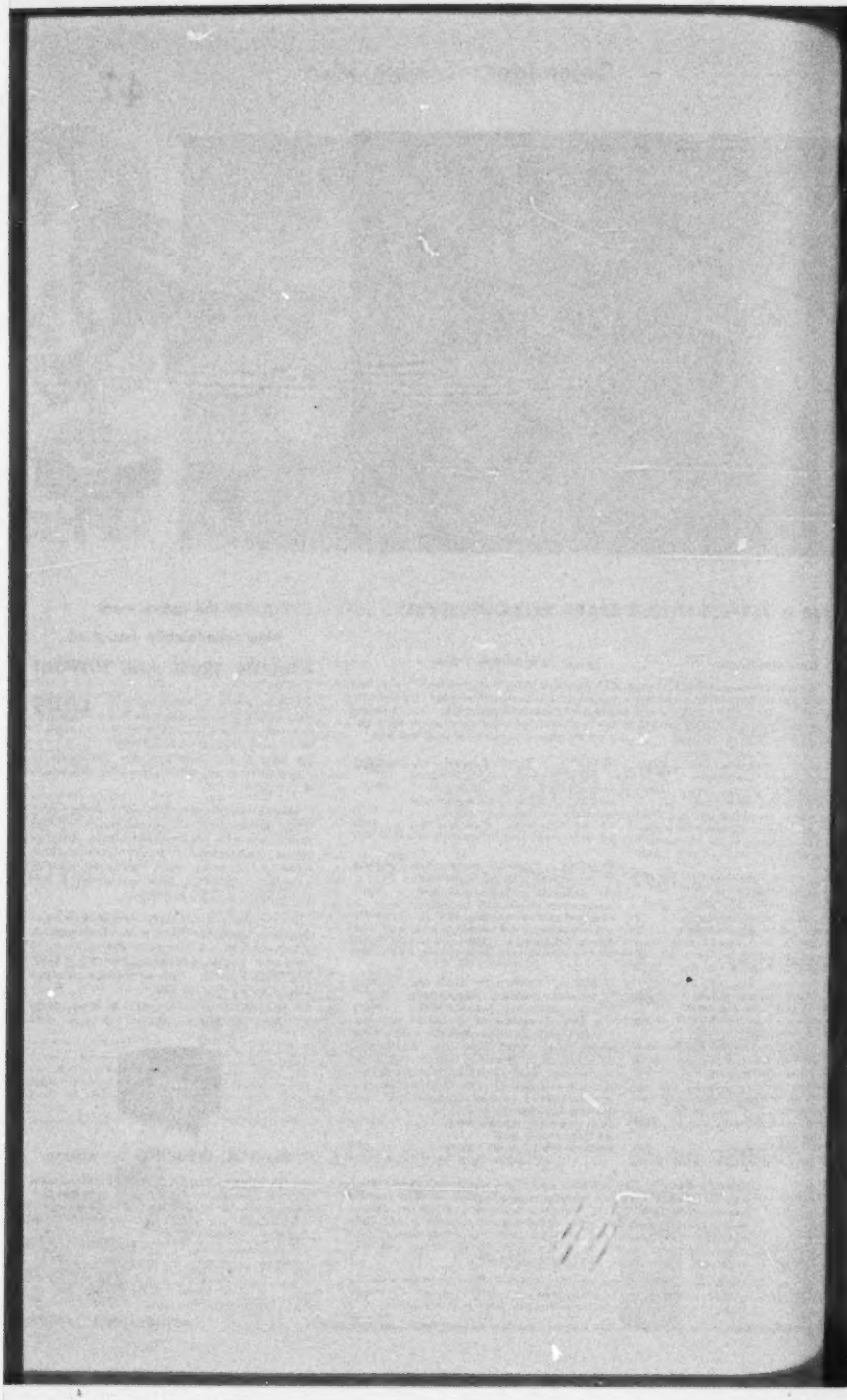
8 D 1325—Single style. Shpg. wt. 1 lb. 10 oz. ... $8.89
8 D 1326—Double style. Shpg. wt. 1 lb. 14 oz. ... 9.99



ELASTIC WEBBING for trusses

Use this elastic webbing for trusses and artificial limbs. Made of good quality cotton woven over strands of heavy rubber for extra service. *Measure the webbing now used, order same width.* Buy Sears trusses for high quality at a low price.

Width Inches	Catalog Number	Shipping Weight	Price Yard
½	8 D 1300	2 oz.	39¢
¾	8 D 1301	3 oz.	59¢
1¼	8 D 1305	4 oz.	69¢
2	8 D 1302	4 oz.	99¢



The next two pages are pages 984-5 of Sears' 1949 catalog illustrating and describing trusses sold by Sears including the one supplied by Harad. Attention of the court is directed to the following:

1. The slogan ACTIVE LIFE shown on catalog page 985 refers to trusses other than the one supplied by Harad.

2. All trusses are identified only as SEARS APPROVED trusses, including the truss supplied by Harad.

3. Compare the line drawing of the bowler with the picture of the bowler shown in Deft's. Ex. 79 in this Appendix.

Plaintiff's Exhibit 00

SEARS APPROVED ATHLETIC TRUSS

- For the active man! Unbelievably comfortable
- Automatically self-fitting
- Scientifically designed so it cannot slip
- Maximum protection!



For maximum protection wear perfect-fitting SEARS APPROVED Truss

- Strong elastic belt, understraps
- Comfortable pliable rubber pad
- Leg straps scientifically placed

$8.89 Single

You can enjoy an active life with this Sears Approved Athletic Truss. Designed to hold reducible hernia when you're doing heavy work or engaged in athletics. See your doctor! Extremely comfortable to wear. Has no steel bands or metal parts to pinch or bind. Thin pliable rubber pad remains fixed in position while soft, pliable truss moves with body. Provides maximum retention for all reducible hernias. Won't slip under strenuous activity, active sports, and everyday stretching and bending. Leg straps are scientifically placed not to interfere with normal body functions. Straps follow natural crease of buttocks and fasten at sides of body; cannot cross legs or ride buttocks. Excellent after operations to support tissues and aid in preventing recurrences of hernia. Made to support structures instead of pressing deeply at one point. Strong but comfortable elastic belt and understraps with pliable rubber front. Leather reinforcement at buckle. It's *Sears Approved*, your assurance of high quality. Even sizes 30 to 42. *State waist measurement, whether for right or left side.*

8 K 1323—Single style. Shipping wt. 1 lb. 10 oz. **$8.89**
8 K 1326—Double style. Shipping wt. 1 lb. 14 oz. **$9.98**



SEARS APPROVED SCROTAL TYPE TRUSSES

Use Scrotal style trusses to support low reducible ruptures firmly and comfortably. Equipped with understraps to hold pad in position effectively. All exposed metal parts are handsomely plated and highly polished. *Sears Approved* for high quality. Give exact measurement.

A Elastic Scrotal Style. For mild cases of rupture. Elastic webbing waistband. Cluderstrap. Two tension straps at the front position and pressure of leather-covered pad. Comes in even sizes 32 to 42. See **How to Measure** on opposite page. *Please state waist measurement and whether for right or left side.* Shipping weight 12 oz.

8 K 1312—Single style. $6.

B Scrotal Style Spring Truss. For firm support. Adjustable "anti-slip" pad is covered with corrugated rubber to grip the body better. Is padded spring is covered with soft leather. Soft rubber understraps. Even sizes 32 to 42. See **How to Measure** on opposite page. *Be sure to state exact measurement and whether for right or left side.*

8 K 1394—Single. Shipping wt. 1 lb.
8 K 1395—Double. Shipping wt. 1 lb. 12 oz.



SEARS APPROVED HOOD STYLE TRUSSES

Standard Hood Model

$5.69 Single

Use Hood style trusses for support of high, intermediate, or low type reducible ruptures. Resilient steel springs. Rigid front, back opening. Single style has dummy pad on unaffected side.

Standard Hood Model. Leather-covered pad, steel springs. Adjustable pads. Even sizes 32 to 42. See *How to Measure. State measurement, whether right or left side.* Wts. 1 lb. 2 oz.; 1 lb. 4 oz.

8 K 1348—Single style..... $5.69
8 K 1349—Double style..... $6.49

"Anti-slip" Hood Model

$7.79 Single

The pads on this truss are covered with corrugated non-slip rubber to hold firmly on the body.

Steel springs are covered with first-quality sweat-resistant leather. Comes in even sizes 32 to 42. See *How to Measure* on opposite page. *Please state exact measurement and whether for right or left side.* Excellent value!

8 K 1391—Single style. Shipping weight 1 lb. 2 oz..... $7.79

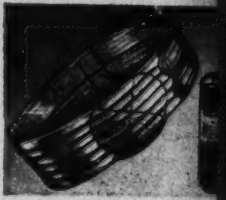
8 K 1393—Double style. Shpg. wt. 1 lb. 4 oz..... $8.98

Plastic Hood Style

$7.98 Single

Easy to keep clean and sanitary . . . just wipe with a wet cloth when you want to clean it! Pads and springs covered with smooth, light weight plastic. Won't absorb odors. May be worn while bathing or swimming. Fastens with sturdy leather strap. Excellent truss for year-round use! It's *Sears Approved*, your assurance of quality. Comes in sizes 30 to 42. *Please state exact measurement and whether for right or left side.* Shpg. wts. 1 lb. 1 oz.; 1 lb. 3 oz.

8 K 1315—Single style..... $7.98
8 K 1316—Double style..... $8.98



SEARS APPROVED UMBILICAL TRUSS

Gives secure support for navel ruptures. Soft sponge rubber pad. Elastic band permits free movement of the body. Washable, easy to keep sanitary. Comes in even sizes 34 to 44. In measuring, take measurement around body at navel. *Please state this exact measurement.*

8 K 1314—Shpg. wt. 1 lb. 4 oz..... Only

Dusting Powder for Trusses

No matter how perfectly your truss fits, it will fit better if you use this high-quality powder especially to use with surgical appliances. It's a soothing cushion between truss and body. Non-absorbent. A real aid to comfort.

8 K 1399—2-ounce can. Shpg. wt. 4 oz.
Two (3-ounce) cans. Shpg. wt. 7 oz.

ELASTIC BANDAGES of high quality



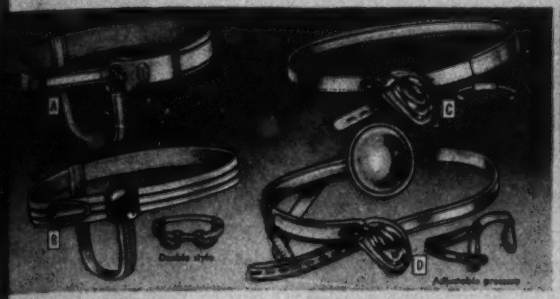
$1.00 2-inch **C Tenser Elastic Bandage.** Made with rubber. For varicose veins, dislocations, swellings. 50 feet stretched. Beige color. Washable. Postpaid (Shipping weight 4 ounces)

Width	Catalog No.	Each
2 inches	8 K 1402	$1.00
3 inches	8 K 1406	1.50
4 inches	8 K 1407	1.85

79c 3-inch **D Tetw Rubberless Elastic Bandage.** Special weave of cotton gives elasticity. 15 feet stretched. Cream color. For varicose veins, sprains.

Catalog No.	Width	Shpg. wt. each	Each	Two for
8 K 1444	2 in.	2 oz.	79c	$1.49
8 K 1448	3 in.	3 oz.	98c	1.89
8 K 1449	4 in.	4 oz.	$1.39	2.69

. . . . Trusses are available on Sears Easy Payment Terms. For details, see inside back cover



RUPTURED? YOU CAN STILL LEAD AN ACTIVE LIFE

SEARS APPROVED Elastic Style Trusses

...ve light pressure and comfortable support in less severe cases of high or intermediate reducible rupture. Comfortable wearing in bed. Washable elastic webbing.

$1.98 New York

New York Style. Reversible leather-covered pad—for either right or left side. Strong elastic webbing. Sizes 20 to 42. See *How to Measure* below. *State exact measurement.*

K 1310—Single style. Shpg. wt. 8 oz. $1.98

"Ide Combine" Style. Soft corrugated rubber for comfortable fit. Heavy, close-woven elastic webbing. Even sizes 32 to 42. See *How to Measure*. *Be sure to state exact measurement.* Shipping weights 8 ounces; 12 ounces.

K 1305—Single style. Fits right or left side. $3.98
K 1304—Double style. $4.98

SEARS APPROVED French Style Trusses

For restricting high or intermediate reducible ruptures. Adjustable pad. No understraps. Leather-covered steel springs.

Now Sells Now $3.98 NOW $3.89 Single

C "Poly-Flex" Model. Anti-slip rubber pad. Even sizes 32 to 44. *State measurement, whether for right or left side.*

K 1385—Single. Shpg. wt. 1 lb. $3.89
K 1386—Double. Shpg. wt. 1 lb. 4 oz. 3.98

D Adjustable Pressure Model. One simple motion regulates pressure on pad from firm to mild (see small view above). Anti-slip rubber pad. Leather back pad padded. See *How to Measure*. *State measurement, whether for right or left side.*

K 1380—Even sizes 32 to 42. Shpg. wt. 1 lb. 1 oz. $10.49

SUSPENSORIES

E Single-strap Style. Fits without understraps. Knit cotton pouch. Adjustable waistband of cotton webbing. Washable. *State choice: medium or large size pouch.*

49c Each

K 1478—Shpg. wt. ea. 2 oz. ... Each 49c Two for 93c

F Army-Navy Style. Pouch of cotton mesh bound in braid. Adjustable elastic understraps and waistband. Washable. *State choice of medium or large size pouch.*

K 1476—Shpg. wts. 3 oz.; 5 oz. Each 79c Two for $1.49

G Sears Approved. Seamless rayon pouch shaped to fit properly. Low opening. Adjustable elastic understraps and waistband. Washable. *State choice of medium or large size pouch.* An exceptional value!

K 1480—Shpg. wts. 3 oz.; 5 oz. Each $1.15 Two for $2.19

If you do not at present wear a truss, we suggest you see your family doctor on the style of truss to buy. SEARS APPROVED Trusses give you high quality and proper fit.



HOW TO MEASURE FOR TRUSSES. Have someone draw tape measure straight around the body in direct line with the point of rupture, as shown in the diagram at left. Take snug measurement over the bare skin—do not measure over clothes. Send us this exact measurement and we will send you the correct size truss. (Do not send waist measurement except for 8K1325 and 8K1326.)

NOTE For larger sizes than those listed, order the style you want at the price shown, and we will get it for you at no extra charge. Allow 60 days for special sizes. No C.O.D. orders.

Elastic Webbing for Trusses. Good quality cotton woven over strands of heavy rubber. *Measure webbing now used, order the same width.*

Width inches	Catalog number	Shipping weight	Price yard
⅞	8 K 1300	2 oz.	39c
1⅛	8 K 1301	3 oz.	69c
1¾	8 K 1302	4 oz.	79c
2	8 K 1282	4 oz.	89c





CRUTCHES, CANES . . select hardwood for safe, dependable support

...Rubber Crutch and Cane Tips. Highest quality natural rubber ...g life and service. Metal ...side tip increases wear. Fits ...inches and canes from ¾ to ¾ ...diameter. Shpg. wt. 7 oz.

K 1008—2 pairs. 69c

...Sponge Rubber Arm Cushions. ...help absorb shocks. Long wearing, comfortable. Fit top of all standard crutches. Shipping weight 1 ounce.

K 1014—Pair. $1.19

HOW TO MEASURE FOR CRUTCHES

Stand erect (shoes on), both feet flat on floor. Measure from armpits to floor at heel. Add 2 in. to this measurement. Used crutches are not returnable

K Standard Hardwood Crutch. Even sizes 36 to 60 inches. Rubber tip included. See *How to Measure* at left. *State length.*

8 K 01001—Shpg. wt. 1 lb. 12 oz. ... Each $1.19
Two crutches—Shpg. wt. 3 lbs. 8 oz. $2.09

L Adjustable Hardwood Crutch. Convenient and easy to use. Adjusts from 47 to 60 inches. Rubber tip for added safety—helps prevent slipping.

8 K 01002—Shpg. wt. 1 lb. 12 oz. ... Each $1.69
Two crutches—Shpg. wt. 3 lbs. 8 oz. $3.19

M Select quality Birch Maple Crutch. Combines safety with comfort. Attractively hand finished in clear varnish. Two-piece. Sweat-resistant leather-covered arm pad offers comfortable support . . . absorbs ground shock. Rubber tip. Guaranteed 1 year against defects in material and workmanship. Even sizes: 46 to 60 inches. See measuring instructions at left. *State length.*

8 K 01003—Shpg. wt. 1 lb. 12 oz. Each $7.49
Two crutches—Shpg. wt. 3 lbs. 8 oz. ... $12.95

N Hardwood All-Purpose Cane. Attractive dark finish. Rubber tip to help prevent slipping. 35 inches long. Shipping weight 1 pound.

8 K 01005 ..... 98c

P High Quality Mahogany Finish Cane. Horn ring around tip gives added strength, helps prevent splitting. Handsomely finished 36 inches long. Extremely well made for long service. Shipping weight 14 ounces.

8 K 01006 ..... $3.49

R "T" Hardwood Cane. Handle shaped like "T" for easy gripping. Rubber tip helps prevent slipping. Ebony colored hardwood. 36 inches long. Shipping wt. 12 ounces.

8 K 01004 ..... $2.79

INVALID CUSHIONS

These high quality cushions help avoid bedsores . . . offer greater comfort in sickroom, nursery, or office.

$2.69 8 K 2433

S All Rubber. Made of red natural rubber. Easy to inflate without pump. Non-leak valve. 15-inch diameter.

8 K 2433—Shpg. wt. 1 lb. 7 oz. ..... Each $2.69

T Hospital Quality. Sturdy, long-lasting. Hand made of tough rubber, cloth inserted. Air valve for easy inflation without pump.

8 K 2444—14-in. diam. Shpg. wt. 1 lb. $2.79
8 K 2446—16-in. diam. Shpg. wt. 1 lb. 2 oz. ... $3.29
8 K 2448—18-in. diam. Shpg. wt. 1 lb. 4 oz. ... 3.96

V Foam Rubber Cushion. Conforms to body contours for luxurious comfort. Made of 100% latex foam rubber covered with durable white cotton cover. Truly deluxe in every respect. 14-inch diameter, 2¼ inches thick.

8 K 1310—Shpg. wt. 1 lb. 4 oz. ... Each $3.98

The next two pages are 800 of Sears' 1950 catalog and the instruction sheet to Sears' artists for the preparation of said catalog page. The catalog page describes and illustrates SEARS APPROVED trusses; it does not show any truss supplied by Harad, but instead shows the Mack truss. Attention of the court is directed to the following:

1. The slogan *NEW* SEARS ATHLETIC TRUSS is employed for the first time.

2. Compare the rubber "3-contact pads" illustrated within the rectangular boxes for the *NEW* SEARS ATHLETIC TRUSS with the pads illustrated with the truss supplied by Harad shown with reference to differences in shape, design, use and method of illustration.

3. Compare the illustrative cut of the *NEW* SEARS ATHLETIC TRUSS with the previous cuts of the truss supplied by Harad.

4. Compare the line drawing of the man bowling with the figure of the man bowling shown in Defendant's Exhibit 79.

5. Note the absence of the three nude views of a man in different positions, views that were used in the advertising of the truss supplied by Harad.

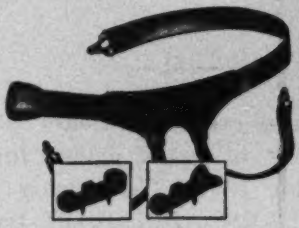
6. Note the difference in the advertising copy for the New Sears Athletic Truss and that used for the Harad truss in previous catalogs. The instructions to Sears' artists is important in that it shows the care exercised by Sears not to use anything belonging to Harad in the advertising of the Mack truss.

Defendant's Exhibit 76

NEW SEARS ATHLETIC TRUSS

- New comfort for the active man
- Designed by a doctor for your safety
- Perfect to wear for work or sports
- Safer when bending, reaching, squatting





Wear SEARS APPROVED Truss for maximum protection

- 3-contact pads for your comfort
- Pads flexible anchored, cannot slip
- Comfortable, flexible rubber front

$7.49 Inguinal style

To give you new comfort when you wear a truss, Sears brings you this newly-designed Athletic Truss with 3-contact pads. Sensational new double-anchor pad does not slip or shift . . . it's similar to holding hernia with 3 fingers. Made of flexible rubber, it contacts hernia at 3 necessary points. This new painless pad compresses inguinal canal, in addition holds inner ring and outer ring of canal. Truss conforms perfectly to shape of abdomen . . . no bulge to show underneath clothing. The new **SEARS APPROVED** Athletic Truss is designed by a doctor to hold reducible hernia even though you do strenuous work or exercise. See your own doctor! Flexible rubber front, elastic webbing, non-cutting leg bands. Washable. A truss in which you can feel safer, whether bending, squatting, or coughing! Even sizes 30 to 42. *State waist measurement.* Two styles: for inguinal hernia and for scrotal hernia. Shpg. wt. 15 oz.

8 D 1327—*inguinal style truss.* Two pads, especially designed for inguinal rupture. $7.49

8 D 1328—*Scrotal style truss.* Two pads, designed for more advanced cases of scrotal rupture. $8.49



SCROTAL TYPE TRUSSES

Use Scrotal style trusses to support low reducible ruptures firmly and comfortably. Equipped with understraps to hold pad in position effectively. All exposed metal parts are heavily nickel plated and highly finished. *Sears Approved* for high quality. *Please give exact measurements.*

A **Elastic Scrotal Style.** For mild cases of ruptures. Elastic webbing waistband. Cloth understrap. Two tension straps at front control position and pressure of leather-covered scrotal pad. Comes in even sizes 32 to 42. *See How to Measure below. Please be sure to state measurement; also state whether for right or left side.* Shipping weight 12 ounces.

8 D 1312—Single. . $4.98

B **Scrotal Style Truss.** Two pads. Adjustable to prevent slip; pad covered with corrugated rubber to prevent body better. Well-padded spring. Leather-covered soft rubber understrap. Even sizes 32 to 42. *See How to Measure below. Please be sure to state measurement; also state whether for right or left side.* Shipping weight 1 lb., 1 lb. 12 oz.

8 D 1394—Single. $4.49

8 D 1395—Double. $6.49



HOOD STYLE TRUSSES

$5.98

Use Hood style trusses for support of high, intermediate, or low type reducible ruptures. Resilient steel springs. Rigid front, back opening. Single style has dummy pad on unaffected side. *Sears Approved* for high quality. "At Sears satisfaction is guaranteed!

C **Standard Hood Model.** Pads and steel springs covered with good quality leather. Pads are adjustable. Even sizes 32 to 42. *See How to Measure below. State measurement and whether for right or left side.* Shpg. wts. 1 lb. 2 oz.; 1 lb. 4 oz.

8 D 1348—Single. **$5.98**

8 D 1349—Double. . $6.98

D **Plastic Hood Style.** Pads and springs covered with smooth, lightweight plastic. Easy to clean! Won't absorb odors. Sizes 30 to 42. *Please state measurement and whether for right or left side.* Shipping weights 1 lb. 1 oz.; 1 lb. 3 oz.

8 D 1315—Single. **$8.98**

8 D 1316—Double. . $9.98

FRENCH STYLE

$3.98 Single

For restricting high or intermediate reducible ruptures. Adjustable pad. No understraps. *Sears Approved!*

E **"Grip-Tite" Model.** Special fixture makes anti-slip rubber pad easily adjustable. Leather-covered, padded steel springs. Even sizes 32 to 44. *State measurement and whether for right or left side.* Shpg. wts. 1 lb.; 1 lb. 4 oz.

8 D 1305—Single. . . $3.98

8 D 1306—Double. . . 5.98

ELASTIC STYLE

$3.98 Single

Gives light pressure, comfortable support in less severe cases of high or intermediate reducible rupture.

F **"Air Cushion" Style. SEARS APPROVED.** Corrugated rubber pad. Elastic webbing. Even sizes 32 to 42. *State measurement.* Shpg. wts. 8 oz.; 12 oz.

8 D 1303—Single. . Fits right or left side. . . . $3.98

8 D 1304—Double. . . 4.98

UMBILICAL TRUSS

$4.69 Each

G Gives secure support for navel ruptures. Soft sponge rubber pad. *Sears Approved* for your protection.

Elastic band permits free movement of the body. Washable. Comes in even sizes 34 to 44. In measuring, take snug measurement around body at navel. *Please state this exact measurement.* Shpg. wt. 1 lb. 4 oz.

8 D 1314—Only. $4.69

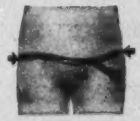
SURGICAL APPLIANCE POUCHES

Makes any support better. Made especially to use with surgical appliances. Acts as a protective cushion between appliance and body. Shipping weight 4 oz., 5 oz.

8 D 1299—2-oz. size. Each

Two (2-oz.) cans for

Do you need a truss? If so, we suggest you read our handy chart on the style of truss to buy.



HOW TO MEASURE FOR TRUSSES. Draw tape measure around body in direct line with point of rupture, as shown above. Take snug measurement over bare skin—do not measure over clothes. Send us this exact measurement. (Do not send waist measurement except for 8D 327 and 8D 1328.)

Note: For larger sizes than those listed, order the style you want at price shown. We will get it for you at no extra charge. Allow 60 days for special sizes. Sorry, no C.O.D. orders.



Elastic Webbing for Trusses. Good quality cotton woven over strands of heavy rubber. *Measure webbing new need, order same width.*

Width Inches	Catalog No.	Shpg. wt.	Price yard
½	8 D 1300	2 oz.	49c
1½	8 D 1301	3 oz.	69c
1¾	8 D 1303	4 oz.	79c
2	8 D 1302	4 oz.	89c

Order SEARS APPROVED *Trusses for proper fit and long wear. Satisfaction guaranteed.*



73c 2-inch

D **Rubberless Elastic Bandage.** Special weave of cotton gives elasticity. 15 feet stretched. Cream color. For varicose veins, sprains. 2-inch, 3-inch, and 4-inch widths reduced in price from last fall.

Catalog No.	Width	Shpg. wt. each	Each	Two for
8 D 1446	2 in.	2 oz.	73c	$1.39
8 D 1448	3 in.	3 oz.	90c	1.69
8 D 1449	4 in.	4 oz.	$1.19	2.19
8 D 1408	5 in.	4 oz.	1.59	2.98
8 D 1409	6 in.	4 oz.	1.79	3.38



SUSPENSORIES . . Sears guarantees quality

H **Single-Strap Style.** Fits without understraps. Knit cotton pouch. Adjustable waistband of cotton webbing. Washable. *Please state choice: medium or large size pouch.*

8 D 1478—Shipping wt. each 2 oz. . . . Each 49c

Two for only. 93c

49c Each

J **Army-Navy Style.** Pouch of cotton bound in braid. Adjustable elastic straps and waistband. Washable. *State if medium or large size pouch.*

8 D 1476—Shpg. wt. 3 oz. . . . . Each

Buy 2 and save. Shpg. wt., 5 oz. Two only. . . . . Each

K **SEARS APPROVED.** Seamless rayon pouch shaped to fit properly. Low cutting. Adjustable elastic understraps and waistband. Washable. *Please state choice of medium or large size pouch.* Exceptional value!

8 D 1480—Shpg. wt. 3 oz. . . . . Each

Buy 2 and save! Shpg. wt., 5 oz. Two for only. . . . . Each

All trusses are available on Sears Easy Payment Terms. For details, see inside back cover

Defendant's Exhibit 76

53

DEFENDANT'S EXHIBIT 76

SEARS, ROEBUCK AND CO.,
CHICAGO 7, ILL.

No. 28187

6578

LAYOUT AND ART ORDER

(ORIGINAL-TO SOURCE)

Date 9-7-49

Book "F" Gen.

Page 608

Comp. No. 142

Form No.

All information in this box must be shown on invoice.

ORDER ISSUED TO Illustro

INSTRUCTIONS TO SOURCE: *Please perform the work ordered below and submit invoice within 10 days to Sears, Roebuck and Co., Dept. 747, Art Cost Control Division.*

ALL OLD ART:

Pick up old art from pages 984and 985 Chi '49 "F" Gen.

Note:

Prepare page as indicated by layout; it is requested that a flap be made over the feature Truss #1325. We wish to have artwork ready on a new Truss to replace the #1325 if the source can supply them in time for this book.
The new Truss will be #1327 with two individual pads #1328 and #1329. Samples are available for immediate pickup in this office.
Show "use views" as indicated by the layout, but do not use the same three small views. (The ones in the "F" book in black frames.) These are the manufacturer's views and are not to be used with another product. It's O.K. to use the farmer and bowler for both. Shoot the new Truss for the flap as indicated on the tissue enclosed herewith.

INFORMATION TO SOURCE:

To aid us in handling your invoices promptly:

1 This is not a fee order until signed by the Art Buyer.

2 Please show all reductions in box above.

3 Bills for any work not covered by written instructions hereon will not be honored.

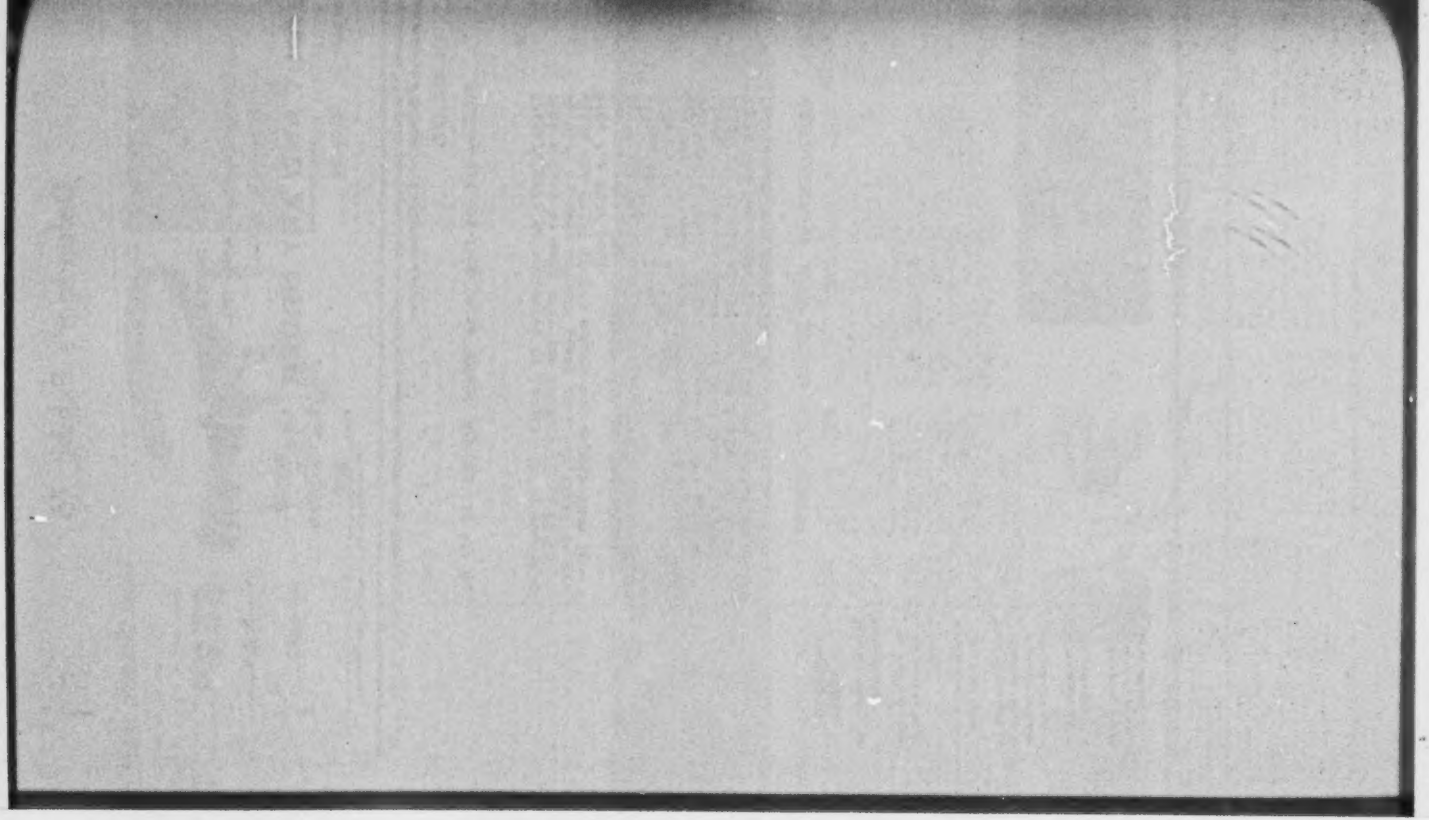
4 Bill in triplicate and attach proof or photostats.

5 Model's service must be covered by properly signed releases.

Ordered By: E Terry

Dispatch Sales Dept.

Dispatch Art Buyer



Plaintiff's Exhibit TT

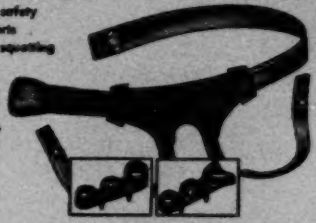
54

Utmost comfort for active men!

SEARS APPROVED Athletic Truss gives positive 3-way support

- Designed by a doctor for your safety
- Perfect to wear for work or sports
- Safer when bending, reaching, squatting





- 3-contact pads for your comfort
- Pads double anchored, cannot slip
- Comfortable, flexible rubber front

$7.49 Inguinal style

To give you the utmost comfort when you wear a truss, Sears brings you this scientifically-designed Athletic Truss with 3-contact pads. Sensational double-anchor pad does not slip or shift . . . it's similar to holding hernia with 3 fingers. Made of flexible rubber, it contacts hernia at 3 necessary points. This pubbon pad compresses inguinal canal, in addition holds inner ring and outer ring of canal. Truss contours perfectly to shape of abdomen . . . no bulge to show underneath clothing. The SEARS APPROVED Athletic Truss is designed by a doctor to hold reducible hernia, even though you do strenuous work or exercise. See your own doctor! Flexible rubber front, elastic webbing, non-cutting leg bands. Washable. A truss in which you can feel safer, whether bending, squatting, or coughing! Even sizes 30 to 42. State waist measurement. Two styles: for inguinal hernia and for scrotal hernia. Shpg. wt. 15 oz.

8 E 1272—Inguinal style truss. Two pads, especially designed for inguinal rupture.....$7.49

8 E 1325—Scrotal style truss. Two pads, designed for more advanced cases of scrotal rupture.... 8.49



SCROTAL TYPE TRUSSES

Use Scrotal style trusses to support low reducible ruptures firmly and comfortably. Equipped with understrap to hold pad in position effectively. All exposed metal parts are heavily nickel plated and highly polished. *Sears Approved* for high quality. *Please give exact measurement.*

$4.98 Elastic Scrotal Style

A **Elastic Scrotal Style.** For mild cases of rupture. Elastic webbing waistband. Cloth understrap. Two tandem straps at front control pressure and prevent slipping. Leather-covered scrotal pad. Comes in even sizes 32 to 42. See How to Measure below. *Please be sure to state measurement, also state whether for right or left side.* Shipping weight 13 ounces.

8 E 1512—Single...$4.98

B **Scrotal Style Spring Truss.** Adjustable "anti-slip" pad covered with corrugated rubber to grip body better. Well-padded spring, leather-covered, soft rubber understrap. Even sizes 32 to 42. See How to Measure below. *Please be sure to state measurement, also state whether for right or left side.* Shpg. wt. 1 lb.; 1 lb. 12 oz.

8 E 1304—Single...$6.98

8 E 1395—Double...$8.98



HOOD STYLE TRUSSES

Use Hood style trusses for support of high, intermediate, or low type reducible ruptures. Resilient steel springs. Rigid front, lock opening. Single style has dummy pad on unaffected side. *Sears Approved* for high quality. At Sears satisfaction is guaranteed!

$5.98 Standard Hood Style. **Single**

C **Standard Hood Model.** Pads and steel springs covered with good quality leather. Pads are adjustable. Even sizes 32 to 42. See How to Measure below. State waist measurement and whether for right or left side. Shpg. wts. 1 lb. 2 oz.; 1 lb. 4 oz.

8 E 1340—Single...$5.98

8 E 1340—Double...$6.98

D **Plastic Hood Style.** Pads and steel springs covered with smooth, light-weight plastic. Easy to clean! Won't absorb odors. Sizes 30 to 42. *Please state measurement and whether for right or left side.* Shipping weights 1 lb. 1 oz.; 1 lb. 3 oz.

8 E 1313—Single...$8.98

8 E 1314—Double...$9.98

FRENCH STYLE

$3.98 For restricting high or intermediate reducible ruptures. Adjustable pad. No understraps. *Sears Approved!* Single

E **"Ideo-Tite" Model.** Special fabric makes anti-slip rubber pad easily adjustable. Leather-covered, padded steel springs. Even sizes 32 to 44. State measurement and whether *for right or left side.* Shipping weights 1 pound, 1 pound 4 ounces.

8 E 1385—Single...$3.98

8 E 1386—Double...$3.98

ELASTIC STYLE

$3.98 Gives light pressure, comfortable support in low seven cases of high or intermediate reducible rupture. Single

F **"Ab-Gidden" Style. Sears APPROVED.** Ventilated rubber pad. Elastic webbing. Even sizes 32 to 42. State measurement. Shpg. wts. 8 oz.; 12 oz.

8 E 1305—Single. Fits right or left side.....$3.98

8 E 1304—Double...$4.98

UMBILICAL TRUSS

$4.69 Gives secure support for navel ruptures. Soft sponge rubber pad. *Sears Approved* for your protection. Each

Elastic band provides firm support of that hard-to-reach area. Washable, easy to keep sanitary. Comes in even sizes 24 to 44. In measuring, take snug measurement around body at navel. *Please state* desired measurement. Shpg. wt. 1 lb. 4 oz.

8 E 1316—Only.....$4.69

SURGICAL-APPLIANCE POWDER

Makes any support feel better. Made especially for use with surgical appliances. Acts as a soothing cushion between support and body. Shipping wts. 4 oz.; 7 oz.

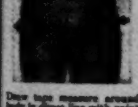
8 E 1399—2-oz. can...60c

Two (2-oz.) cans for...$1.09

Do you need a truss? If so, we suggest you see your family doctor as to style of truss to buy.

You may buy trusses on Sears Easy Terms. For details, see inside back cover.

HOW TO MEASURE



Use tape measure around body in direct line with point of rupture, as shown above. Use same measurement over bare skin—do not measure over clothes. Send us this exact measurement. (Do not add waist measurement except for 8 E 1277 and 8 E 1338.)



Elastic Webbing for Trusses. Good quality cotton woven over strands of heavy rubber. *Measure* webbing over mind, order same width.

Width Inches	Catalog No.	Shpg. wt.	Price per yard
⅞	8E1300	2 oz.	49c
1¼	8E1301	3 oz.	69c
1½	8E1302	4 oz.	79c
2	8E1303	4 oz.	99c

Order SEARS APPROVED Trusses for proper fit and long wear. Satisfaction guaranteed.

73c 2-inch

Substitute Elastic Bandage. Special weave of cotton threads gives it elasticity. Longer when stretched, about 14 feet. Cream color. For various uses, sizes, supporting, and spraining. Retains even tension.

Catalog No.	Width	Shpg. wt. each	Each	Two for
8 E 1446	2 in.	2 oz.	73c	$1.39
8 E 1448	3 in.	3 oz.	99c	1.89
8 E 1449	4 in.	4 oz.	$1.19	2.19
8 E 1450	6 in.	6 oz.	1.59	2.98
8 E 1499	6 in.	6 oz.	1.79	3.38



SUSPENSORIES . . priced low at Sears!

49c Single-Strap Style. Each

H **Single-Strap Style.** Fits without underarm straps. Knit cotton pouch. Adjustable waistband of cotton webbing. Washable. *Please be sure to state chest: medium or large size pouch.*

8 E 1479—Shpg. wt. each 2 oz.. Each 49c

Two for only.....98c

Army-Navy Style. Pouch of cotton mesh knitted in tubular. Adjustable elastic waistband and leg straps. Washable. *State chest measurement: medium or large size pouch.*

8 E 1478—Shpg. wt. 3 oz.....Each 79c

Buy 2 and save! Shpg. wt. 5 oz. Two for only $1.49

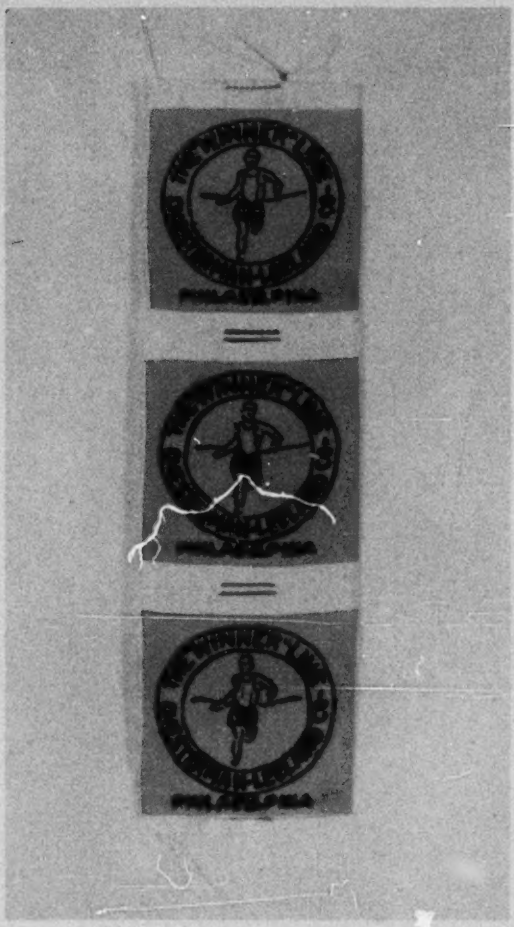
SEARS APPROVED. Seamless cotton pouch shaped to fit properly. Low opening. Adjustable elastic understraps and waistband. Washable. *Please state chest: medium or large size pouch. Exceptional value!*

8 E 1480—Shpg. wt. 3 oz.....Each $1.15

Buy 2 and save! Shpg. wt. 5 oz. Two for only $2.19

Read interesting articles in the field of medicine in American Peoples Encyclopedia. For Encyclopedia, see Index

Defendant's Exhibit 13



53

Defendant's Exhibit 97

Registered Jan. 1, 1935 **Trade-Mark 320,575**

UNITED STATES PATENT OFFICE

Chesterman-Leeland Co., Philadelphia, Pa.

Act of February 20, 1905

Application September 6, 1934, Serial No. 255,782



STATEMENT

To the Commissioner of Patents:

Chesterman-Leeland Co., a corporation duly organized under the laws of the State of Pennsylvania, and located at Philadelphia, in the county of Philadelphia, and State of Pennsylvania, and doing business at 902 Montgomery Avenue, Philadelphia, Pennsylvania, has adopted and used the trade-mark shown in the accompanying drawing, for ELASTIC ATHLETIC SUPPORTERS, SURGICAL TRUSSES, ABDOMINAL SUPPORTERS, ELASTIC HOSIERY, AND SUSPENSORIES, in Class 44, Dental, medical, and surgical appliances, and presents herewith five specimens showing the trade-mark as actually used by applicant upon the goods, and requests that the same be registered in the United States Patent Office in accordance with the act of February 20, 1905, as amended. The trade-mark has been continuously used and applied to said goods in applicant's business as follows: The word "Winner" and the representation of an athlete arriving at the finish line tape and breaking the same has been used by the applicant since June 3, 1929. The trade-mark as shown on the drawing and on the specimens submitted along with this application has been used by the applicant since August 6, 1934. The applicant is also proprietor of trade-mark certificate of registration No. 188,152 issued on August 19, 1924. The trade-mark is applied or affixed to the goods, or to the packages containing the goods, by placing thereon a woven label on which the trade-mark is shown and in divers other ways known to the trade.

The undersigned hereby appoints Michael Saxe, Esq., of 141 North 15th Street, Philadelphia, Pa., and A. D. Caesar and Charles W. Rirse, Esquires, of 1321 Arch Street, Philadelphia, Pa., its attorneys to prosecute this application for registration, with full power of substitution and revocation, to make alterations and amendments therein, to receive the certificate and to transact all business in the Patent Office connected therewith.

CHESTERMAN-LEELAND CO.,
By DANA L. CHESTERMAN,
Secretary.

Defendant's Exhibit 97

Registered Jan. 1, 1935

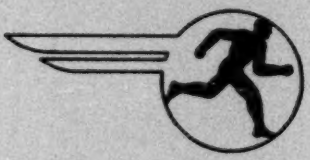
Trade-Mark 320,530

UNITED STATES PATENT OFFICE

Stride Products Corporation, Cleveland, Ohio

Act of February 20, 1905

Application August 30, 1934, Serial No. 215,102



STATEMENT

To the Commissioner of Patents:

Stride Products Corporation, a corporation duly organized under the laws of the State of Ohio, and located at Cleveland, Ohio, and doing business at 1276 Ontario Street, Cleveland, Ohio, has adopted and used the trade-mark shown in the accompanying drawing for CORN PADS, METATARSAL SUPPORTS, ARCH SUPPORTS, CALLOUS PADS, CALLOUS CUSHIONS, BUNION SHIELDS, BUNION PADS, HEEL CUSHIONS, ARCH BINDERS, ANKLE SUPPORTS, AND HEEL CUPS, in Class 44, Dental, medical, and surgical appliances, and presents herewith five specimens showing the trade-mark as actually used by applicant upon the goods, and requests that the same be registered in the United States Patent Office in accordance with the act of February 20, 1905. The trade-mark has been continuously used and applied to said goods in applicant's business since March 17, 1934. The trade-mark is applied or affixed to the goods by printing it upon the boxes or packages containing the same, by placing thereon a printed label on which the trade-mark is shown, or in other ways customary in the trade.

The undersigned hereby appoints Evans & McCoy (a firm composed of Lloyd L. Evans and William C. McCoy) of Bulkley Building, Cleveland, Ohio, its attorneys, to prosecute this application for registration, with full powers of substitution and revocation, to make alterations and amendments therein, to receive the certificate, and to transact all business in the Patent Office connected therewith.

STRIDE PRODUCTS CORPORATION,
By W. E. CROFUT, Jr.
Vice President.



Enjoy an active life with

The Sportsman Truss

Unbelievable Comfort and Guaranteed NOT TO SLIP or Your Money Refunded

$9.50

Plain Style Double Side Model

Consider these essential features

- ★ Scientifically Designed for Self-Fitting
- ★ Maximum Protection
- ★ Real Comfort Without Pistol
- ★ It is Unconditionally Guaranteed

Steel truss wearers . . . Now it is possible to get maximum retention with real comfort. The Sportsman has no steel bands or metal parts to gouge or pinch. There is nothing to bind. Every part is flexible. Yes, and it CAN'T SLIP! Why? Because the inner pad remains fixed in its position, while the soft, pliable cross member with the body. The Sportsman provides maximum retention for all reducible inguinal hernias and won't slip under strenuous activity, active sports and everyday stooping and bending.

No Personal Fitting! Buy Over The Counter!
Take Home, Put On And Forget Your Truss!

962

Consider 3 things when you select your truss!

CORRECT FITTING
MAXIMUM PROTECTION
REAL COMFORT

Put it on and you know IT! You can enjoy an ACTIVE LIFE . . . do the things you like to do, engage in strenuous work, heavy lifting, physical sports, play and work hard with this garment. It is actually possible to engage in ordinary athletics with safety.

Sold by leading drug stores, surgical supply and mail order houses throughout the U.S.

INDUSTRIAL ENGINEERING ASSOCIATES

P. O. Box 1517 · Minneapolis 4, Minn.



Truss

.50

Consider 3 things

when you select your truss!

CORRECT FITTING
MAXIMUM PROTECTION
REAL COMFORT

Sold by leading drug stores, surgical supply and mail order houses

Manufactured by

INDUSTRIAL ENGINEERING ASSOCIATES



ATHLETIC TRUSS

• COMFORT
• SELF-FITTING
• CAN'T SLIP

for all REDUCIBLE INGUINAL HERNIAS

TO PUT ON AND ADJUST YOUR TRUSS



PUT ON WHILE LYING DOWN

PLACE THE RUBBER COLUMNS IN THE FRONT PIECE OF THE TRUSS IN THE DESIRED POSITION AS SUGGESTED BY CHARTS.

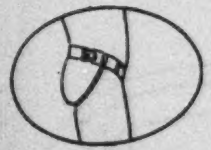
APPLY TRUSS WHILE LYING DOWN AFTER THE HERNIA HAS BEEN FULLY REDUCED BY GENTLE MASSAGE AND PRESSURE. THE FRONT PIECE SHOULD BE LAID ACROSS THE LOWER ABDOMEN SO THAT THE LOWER EDGE TOUCHES WHERE THE LEGS JOIN THE BODY.

ARCH YOUR BACK

AFTER RAISING YOUR BACK, PASS THE BROAD BELT UNDER THE BODY, HOOKING THE BUCKLE ONTO ITS OWN STUD AND PASS THE LEG STRAPS BENEATH THE LEGS TO HOOK THE BUCKLE ON THE STUDS OF THE SAME SIZE, TAKING CARE THAT THE STRAPS ARE NOT CROSSED OR TWISTED. TIGHTEN THE ABDOMINAL STRAP UNTIL IT IS SNUG AND THEN TIGHTEN THE LEG STRAPS UNTIL THEY ARE SNUG. AFTER ADJUSTING THE STRAPS BE SURE THAT THE POINTS ON THE BUCKLES LIE BENEATH THE PROTECTING METAL SHIELD TO PREVENT ANY DAMAGE TO THE CLOTHES.



THE LEG STRAPS



THE LEG STRAPS ARE SO CONSTRUCTED THAT THEY FOLLOW THE NORMAL CREASES OF THE BUTTOCKS MUSCLES AND DO NOT CUT OR IRRITATE EITHER THE GENITAL ORGANS OR THE MUSCLES AROUND WHICH THEY RIDE. THIS FIXED POSITION OF THE LEG STRAPS VARIES IN THE DIFFERENT SIZES TO CONFORM WITH THIS BUTTOCKS CREASE IN VARYING SIZES. RESULTING IN AN [illegible], EASY, COMFORTABLE AND EFFICIENT SUPPORT. REMEMBER THE LEG STRAPS ACT AS A DOUBLE ANCHOR AND IF LEG STRAPS ARE SNUG YOU WILL HAVE A CORRECT FITTING TRUSS.

CORRECT POSITION OF TRUSS

POSITION OF TRUSS AFTER IT IS PROPERLY FITTED. WHERE ABDOMENS ARE FLESHY THE EXCESS FLESH SHOULD BE PULLED UP WHILE APPLYING THE TRUSS AND THEN PERMIT IT TO FALL DOWN. THIS ACTS AS A MODERATE UPLIFT IN THE INGUINAL REGIONS WITHOUT CUTTING OR GOUGING. THE ACTIVE MAN TRUSS GIVES MORE SUPPORT TO LARGE ABDOMENS THAN ANY OTHER TRUSS.



GENERAL INSTRUCTIONS

TRIM OFF THE PROTRUDING PAD POINTS WITH SCISSORS OR A RAZOR BLADE, LEAVING ABOUT 1/8 INCH OF RUBBER ABOVE THE FRONT PIECE AFTER THE TRUSS IS PROPERLY FITTED. ALSO TRIM OFF THE EXTRA RUBBER BANDS, LEAVING ABOUT 2 INCHES FOR ANY FUTURE NECESSARY ADJUSTMENTS.

THE HOOKS AND RIVETS MUST BE USED IN APPLYING AND REMOVING THE TRUSS AFTER IT IS PROPERLY FITTED. USE OF THE BUCKLES ALTERS THE PROPER ADJUSTMENT AND WILL QUICKLY WEAR OUT THE ELASTIC STRAPS.

IF THE HERNIA IS NOT EFFICIENTLY HELD IN, THE FRONT PIECE WAS NOT PLACED LOW ENOUGH. THE WAISTBAND IS TOO LOOSE OR THE LEG STRAPS WERE NOT TIGHTENED SUFFICIENTLY. THIS TRUSS IS SELF-FITTING IF THE PROPER MECHANICAL ADJUSTMENT IS MADE. THE TRUSS SHOULD FIT SNUGLY TO THE MUSCLES IT IS SUPPORTING.

AFTER PROPER ADJUSTMENT IS MADE, CUT THE TOPS OFF THE RUBBER COLUMNS LEAVING 1/8 INCH ABOVE THE SURFACE OF THE TRUSS AND TRIM THE SURPLUS ELASTIC BANDS TO WITHIN 1½ INCH OF THE BUCKLES. BE SURE THE TRUSS IS WORKING EFFICIENTLY BEFORE CUTTING ANY PARTS.

THE HOOKS AND RIVETS MUST BE USED IN APPLYING AND REMOVING THE TRUSS AFTER IT IS PROPERLY FITTED. USE OF THE BUCKLES ALTERS THE PROPER ADJUSTMENT AND WILL QUICKLY WEAR OUT THE ELASTIC STRAPS. JUST SNAP THE BUCKLES OVER THE PROTRUDING STUD TO REMOVE OR PUT ON TRUSS.

ON SENSITIVE SKINS PROTECT THE BODY BY PLACING CLEAN HANDKERCHIEFS OR OTHER CLEAN COTTON MATERIAL BETWEEN THE PADS AND THE BODY WHERE ANY DISCOMFORT ARISES. WASH TRUSS WHEN NECESSARY WITH SOAP AND WARM WATER.

REMEMBER THE TRUSS MUST BE SNUG AND TIGHT TO HOLD HERNIA EFFICIENTLY. THIS RULE APPLIES TO LEG BANDS AS WELL AS BELT.

A MESSAGE TO YOUR PHYS

IF YOU ARE UNDER A DOCTORS CARE

SHOW THIS PAGE TO YOUR DOCTOR

3 POINT PRESSURE TRUSS PADS (See Illust

DESIGNED TO MEET THE ANATOMICAL REQUISITES OF AN INGUI

THE INGUINAL LIGAMENT IS APPROXIMATELY 4 5/8 INCHES LONG. RING LIES HALF WAY UP THIS LIGAMENT AND 1/2 INCH ABOVE IT. INCHES FROM THE INTERNAL RING TO THE EXTERNAL RING.

PRESSURE OVER THE EXTERNAL RING SHOULD BE AT THE PUBIC TUB INCH BEYOND THE FASCIAL OPENING - REQUIRING AN OVERALL L INCHES FROM PRESSURE POINT TO PRESSURE POINT TO PROPERLY TOTAL INGUINAL CANAL.

THIS PAD HAS THE FOLLOWING FEATURES: THREE POINT PRESSU INGUINAL CANAL TO COMPRESS AND SUPPORT THE ANATOMICAL STRU

1. PRESSURE EQUIVALENT TO THE TIP OF THE MIDDLE F INTO THE INTERNAL RING, OR THE AREA AT WHICH ING HERNIAS ORIGINATE.
2. TRANSVERSE PRESSURE EQUIVALENT TO THE MIDDLE F COMPRESSING THE INGUINAL CANAL AT ITS MIDDLE OR TRAL PORTION TO ELIMINATE IMPULSES SLIPPING TH THE CANAL.
3. PRESSURE EQUIVALENT TO THE GROUPED ENDS OF THRE GERS FITTING IN AND PLUGGING THE EXTERNAL RI OPENING ALONGSIDE THE PUBIC TUBERCLE.

THIS THREE POINT PRESSURE IS EFFICIENT SINCE IT:

1. IS CONSTRUCTED TO COMPRESS THE ENTIRE CANAL SCI CALLY OVER A 2½ INCH AREA INSTEAD OF JUST PLU THE EXTERNAL RING AS MOST PADS DO.
2. HAS A THREE POINT PRESSURE TO COMPRESS THE TI INSTEAD OF A TUBE OR RIDGE THAT IS EASILY DISP TO PERMIT THE HERNIAL CONTENT TO SLIP BEHIND IT SITTING, COUGHING OR STRAINING.
3. WILL EFFICIENTLY CONTROL HERNIAS IN THE ING CANAL AS THEY ORIGINATE, AS THEY BECOME LARGE PASS DOWN THE CANAL, OR AS THEY EMERGE INT SCROTAL AREA.

SCIENTIFICALLY THESE PADS ARE CONSTRUCTED SO THAT:

1. IT IS 2½ INCHES FROM THE CENTER OF THE PRESSU OVER THE INTERNAL RING TO THE CENTER OF THE PR PAD OVER THE EXTERNAL RING.
2. THE SCROTAL PAD HAS A DOUBLE ELEVATION AT TH TERNAL RING FOR SCROTAL SUPPORT. SCROTAL HERNIA DAYS HAVE A WEAKNESS ABOVE THE PUBIC BONE.
3. THE EXTRA ELEVATION APPLIES PRESSURE ABOVE TH TERNAL RING, AS WELL AS OVER IT, ALONG WITH SU ING THE ENTIRE INGUINAL CANAL.
4. NOTE THE FLEXIBLE TABS (ILLUSTRATION ON FRONT O CULAR) WHICH ARE ATTACHED TO LEG BANDS AND SU MOST EFFECTIVELY THE AREA BELOW THE BOTTOM TIP This NEWLY DESIGNED SCROTAL PAD SUPPORTS WEAKN THE RECTUS ABDOMINIS MUSCLE ABOVE THE PUBIC WHERE DIRECT HERNIAS AND SURGICAL RECURRENCES O
5. THE WIDE ELASTIC BAND SHOULD REST BELOW THE BON MINENCES FELT IN FRONT ON THE BONY PELVIS AND REST ACROSS THE BONY SURFACE OF SACRUM IN THE OF THE BACK.
6. THE LEG STRAPS MUST BE KEPT COMFORTABLY SNUG TO CIENTLY HOLD THE HERNIA, AND MUST BE DRAWN TIGH THE BAND STRETCHES OR THE HERNIA IS NOT HELD BA

IN PROBLEM CASES OR THOSE DIFFICULT TO HOLD, PLACING A BETWEEN THE PAD AND THE BODY INCREASES THE LOCAL AREA OF SUPPORT.

IN INGUINAL CASES THAT ARE "DIFFICULT TO HOLD" IT IS REC THE "SCROTAL" TRUSS AND PADS BE USED.

SEARS APPROVED T

SEARS ROEBUCK &

A MESSAGE TO YOUR PHYSICIAN

IF YOU ARE UNDER A DOCTORS CARE

SHOW THIS PAGE TO YOUR DOCTOR

3 POINT PRESSURE TRUSS PADS (See Illustration)

DESIGNED TO MEET THE ANATOMICAL REQUISITES OF AN INGUINAL HERNIA.

THE INGUINAL LIGAMENT IS APPROXIMATELY 4 5/8 INCHES LONG. THE INTERNAL RING LIES HALF WAY UP THIS LIGAMENT AND 1/2 INCH ABOVE IT, OR OVER 2¼ INCHES FROM THE INTERNAL RING TO THE EXTERNAL RING.

PRESSURE OVER THE EXTERNAL RING SHOULD BE AT THE PUBIC TUBERCLE OR 1/4 INCH BEYOND THE FASCIAL OPENING - REQUIRING AN OVERALL LENGTH OF 2¾ INCHES FROM PRESSURE POINT TO PRESSURE POINT TO PROPERLY SUPPORT THE TOTAL INGUINAL CANAL.

THIS PAD HAS THE FOLLOWING FEATURES: THREE POINT PRESSURE OVER THE INGUINAL CANAL TO COMPRESS AND SUPPORT THE ANATOMICAL STRUCTURES.

1. PRESSURE EQUIVALENT TO THE TIP OF THE MIDDLE FINGER INTO THE INTERNAL RING, OR THE AREA AT WHICH INGUINAL HERNIAS ORIGINATE.
2. TRANSVERSE PRESSURE EQUIVALENT TO THE MIDDLE FINGER COMPRESSING THE INGUINAL CANAL AT ITS MIDDLE OR CENTRAL PORTION TO ELIMINATE IMPULSES SLIPPING THROUGH THE CANAL.
3. PRESSURE EQUIVALENT TO THE GROUPED ENDS OF THREE FINGERS FITTING IN AND PLUGGING THE EXTERNAL RING OR OPENING ALONGSIDE THE PUBIC TUBERCLE.

THIS THREE POINT PRESSURE IS EFFICIENT SINCE IT:

1. IS CONSTRUCTED TO COMPRESS THE ENTIRE CANAL SCIENTIFICALLY OVER A 2¾ INCH AREA INSTEAD OF JUST PLUGGING THE EXTERNAL RING AS MOST PADS DO.
2. HAS A THREE POINT PRESSURE TO COMPRESS THE TISSUES INSTEAD OF A TUBE OR RIDGE THAT IS EASILY DISPLACED TO PERMIT THE HERNIAL CONTENT TO SLIP BEHIND IT WHILE SITTING, COUGHING OR STRAINING.
3. WILL EFFICIENTLY CONTROL HERNIAS IN THE INGUINAL CANAL AS THEY ORIGINATE, AS THEY BECOME LARGER AND PASS DOWN THE CANAL, OR AS THEY EMERGE INTO THE SCROTAL AREA.

SCIENTIFICALLY THESE PADS ARE CONSTRUCTED SO THAT:

1. IT IS 2¾ INCHES FROM THE CENTER OF THE PRESSURE PAD OVER THE INTERNAL RING TO THE CENTER OF THE PRESSURE PAD OVER THE EXTERNAL RING.
2. THE SCROTAL PAD HAS A DOUBLE ELEVATION AT THE EXTERNAL RING FOR SCROTAL SUPPORT. SCROTAL HERNIAS ALWAYS HAVE A WEAKNESS ABOVE THE PUBIC BONE.
3. THE EXTRA ELEVATION APPLIES PRESSURE ABOVE THE EXTERNAL RING, AS WELL AS OVER IT, ALONG WITH SUPPORTING THE ENTIRE INGUINAL CANAL.
4. NOTE THE FLEXIBLE TABS (ILLUSTRATION ON FRONT OF CIRCULAR) WHICH ARE ATTACHED TO LEG BANDS AND SUPPORT MOST EFFECTIVELY THE AREA BELOW THE BOTTOM TIP OF PAD. THIS NEWLY DESIGNED SCROTAL PAD SUPPORTS WEAKNESS IN THE RECTUS ABDOMINIS MUSCLE ABOVE THE PUBIC BONE WHERE DIRECT HERNIAS AND SURGICAL RECURRENCES OCCUR.
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6. THE LEG STRAPS MUST BE KEPT COMFORTABLY SNUG TO EFFICIENTLY HOLD THE HERNIA, AND MUST BE DRAWN TIGHTER IF THE BAND STRETCHES OR THE HERNIA IS NOT HELD BACK.

IN PROBLEM CASES OR THOSE DIFFICULT TO HOLD, PLACING A RUBBER SPONGE BETWEEN THE PAD AND THE BODY INCREASES THE LOCAL AREA OF PRESSURE AND SUPPORT.

IN INGUINAL CASES THAT ARE "DIFFICULT TO HOLD" IT IS RECOMMENDED THAT THE "SCROTAL" TRUSS AND PADS BE USED.

SEARS APPROVED TRUSS

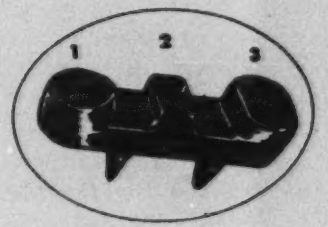
SEARS ROEBUCK & CO.



PATENT PENDING

ACTIVE MAN

INCORPORATING THE FIRST SC
VANCE IN TRUSS DESIGN IN YE
POSITIVE THREE WAY SUPPORT--
COMFORT--WITH GREATER FREED
MENT. . . . . .



REVOLUTIONARY "3-WAY" SUP

for Inguinal hernias

A NEW SCIENTIFICALLY DESIGNED PAD THAT PROVIDES THREE WAY SUPPORT-WITH THREE POINTS OF PRESSURE CONTACT. THE TOP ONE COMPRESSES THE INGUINAL CANAL AT UPPER POINT, WHERE HERNIA USUALLY ORIGINATES (MILD CASE) THE CENTER ONE COMPRESSES THE CANAL, PREVENTING THE HERNIA FROM ADVANCING. THE BOTTOM ONE COMPRESSES THE CANAL EXIT (EXTERNAL RING) WHERE IN ADVANCED CASES, THE BOWELS PROTRUDE AND THE "SWELLING" OCCURS

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MESSAGE TO YOUR PHYSICIAN

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SHOW THIS PAGE TO YOUR DOCTOR

INT PRESSURE TRUSS PADS (See Illustration)

TO MEET THE ANATOMICAL REQUISITES OF AN INGUINAL HERNIA.

INAL LIGAMENT IS APPROXIMATELY 4 5/8 INCHES LONG. THE INTERNAL HALF WAY UP THIS LIGAMENT AND 1/2 INCH ABOVE IT, OR OVER 2¼ FROM THE INTERNAL RING TO THE EXTERNAL RING.

OVER THE EXTERNAL RING SHOULD BE AT THE PUBIC TUBERCLE OR 1/4 OND THE FASCIAL OPENING - REQUIRING AN OVERALL LENGTH OF 2½ FROM PRESSURE POINT TO PRESSURE POINT TO PROPERLY SUPPORT THE UINAL CANAL.

HAS THE FOLLOWING FEATURES: THREE POINT PRESSURE OVER THE CANAL TO COMPRESS AND SUPPORT THE ANATOMICAL STRUCTURES.

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2. THE SCROTAL PAD HAS A DOUBLE ELEVATION AT THE EXTERNAL RING FOR SCROTAL SUPPORT. SCROTAL HERNIAS ALWAYS HAVE A WEAKNESS ABOVE THE PUBIC BONE.
3. THE EXTRA ELEVATION APPLIES PRESSURE ABOVE THE EXTERNAL RING, AS WELL AS OVER IT, ALONG WITH SUPPORTING THE ENTIRE INGUINAL CANAL.
4. NOTE THE FLEXIBLE TABS (ILLUSTRATION ON FRONT OF CIRCULAR) WHICH ARE ATTACHED TO LEG BANDS AND SUPPORT MOST EFFECTIVELY THE AREA BELOW THE BOTTOM TIP OF PAD. THIS NEWLY DESIGNED SCROTAL PAD SUPPORTS WEAKNESS IN THE RECTUS ABDOMINIS MUSCLE ABOVE THE PUBIC BONE WHERE DIRECT HERNIAS AND SURGICAL RECURRENCES OCCUR.
5. THE WIDE ELASTIC BAND SHOULD REST BELOW THE BONY PROMINENCES FELT IN FRONT ON THE BONY PELVIS AND SHOULD REST ACROSS THE BONY SURFACE, OR SACRUM IN THE SMALL OF THE BACK.
6. THE LEG STRAPS MUST BE KEPT COMFORTABLY SNUG TO EFFICIENTLY HOLD THE HERNIA, AND MUST BE DRAWN TIGHTER IF THE BAND STRETCHES OR THE HERNIA IS NOT HELD BACK.

LEM CASES OR THOSE DIFFICULT TO HOLD, PLACING A RUBBER SPONGE THE PAD AND THE BODY INCREASES THE LOCAL AREA OF PRESSURE AND .

INAL CASES THAT ARE "DIFFICULT TO HOLD" IT IS RECOMMENDED THAT "SCROTAL" TRUSS AND PADS BE USED.

ARS APPROVED TRUSS

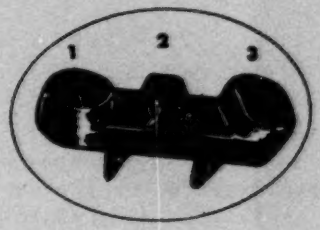
EARS ROEBUCK & CO.

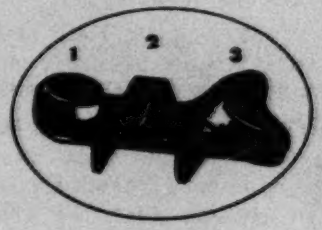
ACTIVE MAN TRUSS CHICAGO

PATENT PENDING

ACTIVE MAN TRUSS

INCORPORATING THE FIRST SCIENTIFIC ADVANCE IN TRUSS DESIGN IN YEARS!! GIVES POSITIVE THREE WAY SUPPORT--WITH UTMOST COMFORT--WITH GREATER FREEDOM OF MOVEMENT. . . . . .





REVOLUTIONARY "3-WAY" SUPPORT PADS

for Inguinal hernias

A NEW SCIENTIFICALLY DESIGNED PAD THAT PROVIDES THREE WAY SUPPORT-WITH THREE POINTS OF PRESSURE CONTACT. THE TOP ONE COMPRESSES THE INGUINAL CANAL AT UPPER POINT, WHERE HERNIA USUALLY ORIGINATES (MILD CASE) THE CENTER ONE COMPRESSES THE CANAL, PREVENTING THE HERNIA FROM ADVANCING. THE BOTTOM ONE COMPRESSES THE CANAL EXIT (EXTERNAL RING) WHERE IN ADVANCED CASES, THE BOWELS PROTRUDE AND THE "SWELLING" OCCURS

for Scrotal hernias

THE ACTIVE MAN TRUSS PAD FOR SCROTAL HERNIA IS OF APPROVED AND ADVANCED DESIGN TO PROVIDE POSITIVE SUPPORT. IT DIFFERS FROM THE INGUINAL TYPE ONLY IN THE BOTTOM SEGMENT OF IT'S THREE SUPPORTING MEMBERS-TO CLOSE OFF AND SUPPORT THE HERNIA AT THE LOWER OUTLET (EXTERNAL RING) OF THE CANAL. THIS LOWER SEGMENT PROVIDES SUPPORT AT AREAS ON BOTH SIDES OF EXTERNAL RING.

Read The Comforting Details Inside

Office - Supreme Court
FILED
DEC 9 195
HAROLD B. WILLEY,

IN THE

Supreme Court of the United States

OCTOBER TERM, 1953.

No. 374

CHARLES F. HARAD, AND SARA E. HARAD, CO-PARTNERS DOING BUSINESS AS INDUSTRIAL ENGINEERING ASSOCIATES,

Petitioners,

vs.

SEARS, ROEBUCK & CO.

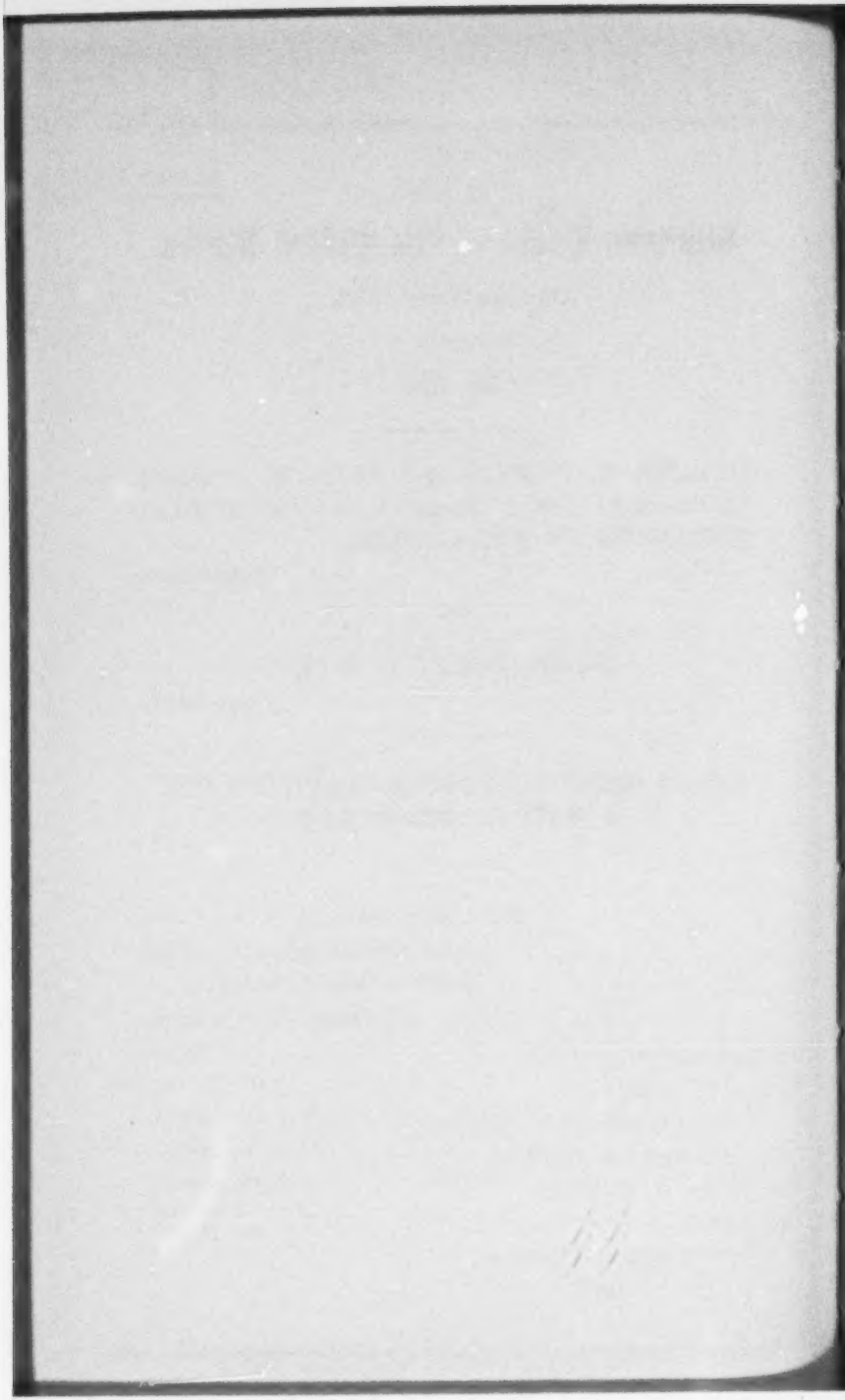
Respondent.

REPLY BRIEF SUPPORTING PETITION FOR A WRIT OF CERTIORARI

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REPLY BRIEF SUPPORTING PETITION FOR A WRIT OF CERTIORARI

Respondent's brief in opposition contains a prejudicial misrepresentation on page 28. On the bottom half of this page is a picture of a truss, labeled "Portion of defendant's Exhibit 76 (Mack Truss)." This purports to be an enlargement of the truss shown in the upper lefthand corner of defendant's Exhibit 76. This it is not. Defendant's Exhibit 76, a page from Sears catalogue shown at page 52 of respondent's brief, should be examined for comparison.[1] The true Exhibit 76 (p. 52) differs from the purported portion on page 28 in the following particulars.

1. The catalogue page shown in Exhibit 76 is also shown in Exhibit SS (following page 21 in petitioner's brief).

1. The buckles on the leg strap and the waistband on Exhibit 76 (p. 52) are open metal loops; the buckles on the purported portion (p. 28) are shielded by an extension of the straps.

2. On Exhibit 76 (p. 52) there is no trade mark; while one exists on the purported portion (p. 28).

3. Exhibit 76 (p. 52) shows a plain waistband; while the purported portion (p. 28) shows a striped waistband.

4. On Exhibit 76 (p. 52), the leather squares holding the terminal buttons in the middle of the waistband have double stitching on each side; while the purported portion (p. 28) shows the stitching going completely around the squares.

5. On Exhibit 76 (p. 52) the boxes, blocking out part of the leg straps and showing the truss pads, are relatively farther apart on Exhibit 76 (p. 52) than on the purported portion (p. 28).

6. The holes shown on the center or shield portion of the truss (the black portion) are wider apart on Exhibit 76 (p. 52) than on the purported portion (p. 28).

Not only is the purported blow-up of Exhibit 76 on page 28 not a reproduction of Exhibit 76, it is not, as far as petitioners know, a portion of any exhibit introduced in evidence or in existence. The nearest likeness to the purported portion of Exhibit 76 (p. 28) is the truss shown in the upper lefthand corner of Exhibit TT—with the flaps or ears on each end of the central or shield portion of the truss (the black portion), blocked out. Exhibit TT is shown at page 54 of respondent's brief. It should be noted that on the purported portion of Exhibit 76 shown on page 28 the truss outline is sharp and well defined along the borders at the end of the shield portion (the black portion) at the point

where the flaps or ears are located on Exhibit TT, but is fuzzy throughout the rest of the truss outline.

Why is this error prejudicial? Sears' purpose in page 28 of its brief was, by comparing the advertisement of the Harad truss shown at the top of the page, Exhibit OO, with the purported advertisement of the substitute truss shown at the bottom of the page, to show certain purported differences in the advertising treatment of the two trusses. Exhibit OO was the Sears catalog advertisement of the Harad truss immediately prior to its advertisement of the Mack truss. Exhibit 76 was the first Sears catalog advertisement of the Mack truss.[2] It is apparently Sears' contention that these purported differences refute petitioners' contention that Sears did not take reasonable means to inform its customers of the substitution of the trusses[3] and the trial court's finding that Sears' use of the advertising cut of the truss in Exhibit 76,

> "displayed an entire want of care and a conscious indifference to the consequences in the form of confusion and mistake on the part of the purchasing public as to the source of origin of said substitute trusses in plaintiffs or that they came from the same source of origin as plaintiff's trusses."[4]

In Exhibit 76 (p. 52) as it exists in fact, in contrast to the purported portion shown on page 28, most of these purported differences disappear; and the marked similarity of the last catalogue advertisement of the Harad truss and the first catalogue advertisement of the Mack truss

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2. Exhibit TT is the second and later advertisement of the Mack truss.

3. Respondent's Brief, page 22.

4. Finding 40; R. 528. It should be noted that Exhibit 76 is page 800 of the Sears Chicago Spring and Summer catalog which is the page contained in Exhibit SS, referred to in the finding.

strongly support petitioners' claim and the trial court's finding.[5]

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5. Because of the serious nature of the matters here presented, petitioners are requesting the Clerk of the Court of Appeals to forward to this Court Exhibits NN, OO, SS, TT, 74 and 76.